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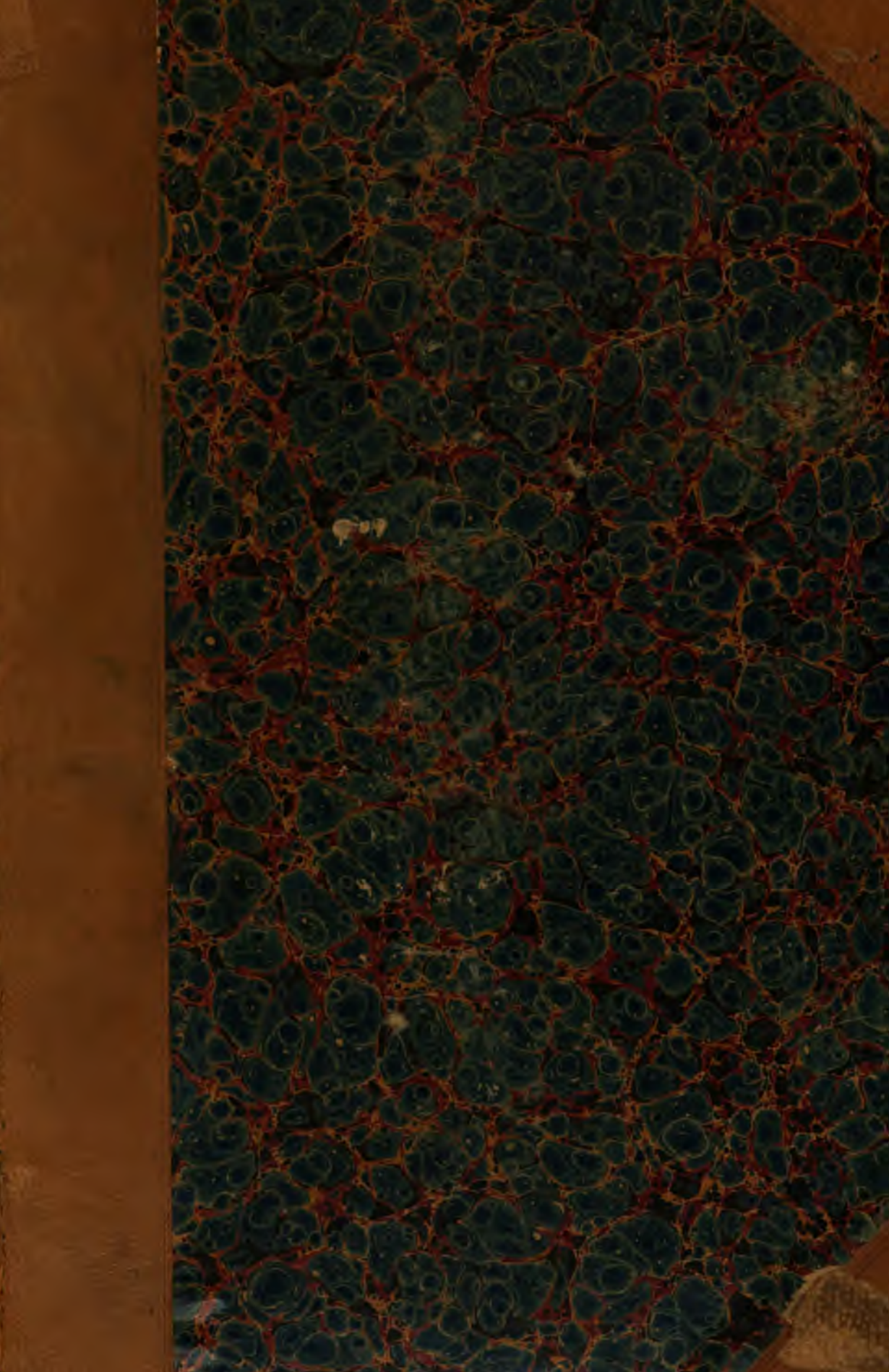
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**AND MISCELLANEOUS LEGAL INFORMATION,**

**FOR**

**THE YEAR 1860:**

**WITH AN**

**ALPHABETICAL LIST OF BANKRUPTS,**

**AND**

**INDEX OF PRINCIPAL MATTERS.**

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A



## GAZETTES.—FRIDAY, Jan. 6.

## BANKRUPTS.

JOHN AUGUSTUS JOSOLYNE and THOMAS TAYLOR, High Holborn, Middlesex, milliners, Jan. 18 and Feb. 9 at 12, London: Off. Ass. Johnson; Sol. Strong, 44, Jewin-street, Aldersgate-street.—Pet. f. Jan. 3.

HEERJEEBHOO RUSTOMJEE, Bishopsgate-street Within, merchant, Jan. 20 and Feb. 17 at 11, London: Off. Ass. Cannan; Sols. Marten & Co., Mincing-lane, London.—Pet. f. Jan. 4.

JAMES GREIG, Cornwall-place, Holloway, Islington, Middlesex, baker, Jan. 18 at 12, and Feb. 15 at 2, London: Off. Ass. Stansfeld; Sol. Layton, jun., Old Paradise-row, Islington-green, London.—Pet. f. Jan. 5.

JOHN CHAMBERLIN, Rupert-street, Haymarket, Middlesex, wheelwright, Jan. 17 at half-past 1, and Feb. 15 at 1, London: Off. Ass. Stansfeld; Sol. Peckham, 40, Ludgate-street, London.—Pet. f. Nov. 29.

JAMES AYLETT, East Horndon, Essex, baker, Jan. 16 at 12, and Feb. 13 at 11, London: Off. Ass. Nicholson; Sols. Digby & Son, Maldon, Essex; Digby & Sharp, 1, Circus-place, Finsbury, London.—Pet. f. Jan. 2.

DAVID SIMPSON, Hatton-garden, Middlesex, goldsmith, Jan. 20 at 1, and Feb. 21 at 12, London: Off. Ass. Edwards; Sols. Lawrance & Co., 14, Old Jewry-chambers, London.—Pet. f. Jan. 3.

HENRY COTTRELL, Bristol, and Easton, St. George, Gloucestershire, glue manufacturer, Jan. 16 and Feb. 29 at 11, Bristol: Off. Ass. Acraman; Sols. Abbot & Co., Bristol; Suckling, Birmingham.—Pet. f. Dec. 19.

HENRY MOSS, Leeds, Yorkshire, draper, Jan. 19 and Feb. 24 at 11, Leeds: Off. Ass. Young; Sols. Prest, Leeds; Langley & Gibbon, 32, Great James-street, London.—Pet. d. Dec. 29.

GEORGE JAMES REID, late of Sydney, New South Wales, and now of Manchester, merchant, Jan. 19 and Feb. 9 at 12, Manchester: Off. Ass. Hernaman; Sols. Sale & Co., Manchester.—Pet. f. Jan. 3.

## MEETINGS.

*Thomas Henry Johnson Brown*, Scott's-yard, Bush-lane, Cannon-street, City, and Blythe-lane, Hammersmith, Middlesex, builder, Jan. 20 at half-past 12, London, pr. d.—*Elizabeth Mary Muller*, Castle-street East, Oxford-street, Middlesex, picture dealer, Jan. 19 at half-past 1, London, ch. ass.—*James Owen*, Westminster-bridge-road, Surrey, grocer, Jan. 17 at 12, London, last ex. and aud. ac.—*Benjamin White*, Lower Grosvenor-street, Grosvenor-square, Middlesex, tailor, Jan. 19 at half-past 12, London, aud. ac.—*James W. Pressey*, Luton, Bedfordshire, printer, Jan. 19 at half-past 12, London, aud. ac.; Jan. 27 at half-past 11, div.—*Wm. R. Redgrave*, Norwich, chemist, Jan. 19 at 11, London, aud. ac.—*Frederick N. Baker*, Southampton, timber merchant, Jan. 19 at 11, London, aud. ac.—*John Marshall*, Angel-court, City, underwriter, Jan. 19 at half-past 12, London, aud. ac.; Jan. 27 at half-past 11, fin. div.—*J. Freeman*, Blackfriars-road, Surrey, chemist, Jan. 19 at 12, London, aud. ac.; Jan. 27 at 11, div.—*Robert Harman*, Littlewick, White Waltham, Berkshire, corndealer, Jan. 19 at half-past 11, London, aud. ac.—*Mary Kent*, widow, Upper Phillimore-place, Kensington, Middlesex, boarding-school keeper, Jan. 19 at 12, London, aud. ac.; Jan. 27 at 11, div.—*Wm. Leigh Wood*, Puckeridge, Hertfordshire, grocer, Jan. 19 at 12, London, aud. ac.—*John Wohlquast*, Oxford-street, Middlesex, dealer in cigars, Jan. 17 at half-past 11, London, aud. ac.—*Thomas Pratt*, Dean-street, Soho, Middlesex, farrier, Jan. 16 at 12, London, aud. ac.—*John S. Morris* and *James Brooks*, Earl-street, Blackfriars, City, stove grate manufacturers, Jan. 16 at 12, London, aud. ac.—*John Dunlop*, Tredgar, Monmouthshire, draper, Jan. 19 at 11, Bristol, aud. ac.; Feb. 2 at 11, div.—*Daniel Whaites*, Bristol, contractor, Jan. 19 at 11, Bristol, aud. ac.—*John Carmichael*, Liverpool, merchant, Jan. 25 at 11, Liverpool, aud. ac.; Jan. 27 at 11, div.—*Joseph Bardsley* the younger, Manchester, cotton spinner, Jan. 23 at 12, Manchester, aud. ac.; Jan. 30 at 12, div.—*James Crocker*, Nottingham, hosier, Jan. 26 at half-past 11, Nottingham, aud. ac.—*Wm. Moore*, Leicester, shoe manufacturer, March 22 at half-past 11, Nottingham, aud. ac. and div.—*John Jackson*, Digby, Lincolnshire, cattle dealer, Jan. 26 at half-past 11, Nottingham, aud. ac.—*F. Ricketts*

and *T. James*, Moorgate street, City, merchants, Jan. 27 at half-past 12, London, div. sep. est. of *F. Ricketts*.—*G. W. Watts*, Red Lion-place, Giltspur-street, City, wholesale cheesemonger, Jan. 27 at 12, London, div.—*James Parker* and *James Ronald*, Bread-street, City, commission agents, Jan. 30 at half-past 1, London, div. sep. est. of *James Parker*.—*Edward Morgan*, Chesapeake, City, wholesale stationer, Jan. 30 at 1, London, div.—*G. E. Arnsby*, Earl's Barton, Northamptonshire, shoe manufacturer, Jan. 30 at 12, London, div.—*Edward R. Stanley*, Kirby-street, Hatton-garden, Middlesex, jeweller, Jan. 28 at 12, London, div.—*William Salmon*, Rattlesden, Suffolk, corn merchant, Jan. 28 at 12, London, div.

## CERTIFICATES.

*To be allowed, unless Cause be shown to the contrary on or before the Day of Meeting.*

*Charles Flegg*, Great Yarmouth, Norfolk, milliner, Jan. 28 at 1, London.—*Wm. Holmes Wakelin*, Ealing, Middlesex, builder, Jan. 28 at 12, London.

## PARTNERSHIPS DISSOLVED.

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## TUESDAY, Jan. 10.

## BANKRUPTS.

EDWIN HAWKER, Above-bar-street, Southampton, homeopathic chemist, Jan. 23 and Feb. 20 at 11, London: Off. Ass. Pennell; Sols. Walker & Harrison, 5, Southampton-street, Bloomsbury.—Pet. f. Jan. 5.

JOHN DYKE, Birmingham, grocer, Jan. 23 and Feb. 13 at 11, Birmingham: Off. Ass. Kinnear; Sols. James & Knight, Birmingham.—Pet. d. Dec. 29.

EDMUND THOMAS SHADWICK, Penarth, near Cardiff, Glamorganshire, common carrier, Jan. 24 and Feb. 21 at 11, Bristol: Off. Ass. Acraman; Sols. Waldron, Cardiff; Bevan & Co., Bristol.—Pet. f. Jan. 6.

JOHN STOATE DATE, Cardiff, Glamorganshire, flour merchant, Jan. 24 and Feb. 21 at 11, Bristol: Off. Ass. Miller; Sols. Smith & Co., Bristol.—Pet. f. Dec. 31.

JOHN ROSS, Truro, Cornwall, draper, Jan. 25 and Feb. 15 at 12, Exeter: Off. Ass. Hirtzel; Sols. Geare & Co., and Bishop & Pitts, Exeter.—Pet. f. Dec. 31.

ROBERT NUTTALL and NATHAN CROSSLEY, Halifax, Yorkshire, machine makers, (trading under the style or firm of Nuttall & Crossley), Jan. 27 and Feb. 24 at 11, Leeds: Off. Ass. Young; Sols. Wavell & Co., Halifax.—Pet. d. Jan. 4.

## MEETINGS.

*Geo. Kindersley Jackson*, Elizabeth-street South, Pimlico, Middlesex, grocer, Jan. 12 at 1, London, aud. ac.—*William Holmes Wakelin*, Ealing, Middlesex, builder, Jan. 28 at 12, London, aud. ac.—*Robert Oakley Wilkins*, Appledram, near Chichester, Sussex, corn dealer, Jan. 24 at 2, London, aud. ac.—*Thomas Allen*, Newport, Monmouthshire, corn factor, Jan. 26 at 11, Bristol, aud. ac.—*James Haigh* and *Joseph Haigh*, Moseley, Lancashire, brushmakers, Jan. 24 at 12, Manchester, aud. ac.; Jan. 31 at 12, div.—*Jessy Lusty*, Liverpool, smallware dealer, Jan. 30 at 11, Liverpool, aud. ac.; Jan. 31 at 11, div.—*Thomas Bailey*, Shrewsbury, Shropshire, wine merchant, Feb. 6 at 11, Birmingham, aud. ac. and div.—*William Barnes* and *Samuel Pickering*, Gracechurch-st., City, wholesale shoe manufacturer, Feb. 2 at 1, London, div.—*Philip Abraham Barnes* and *John Barnes*, Blandford Forum, Dorsetshire, woolstaplers, Feb. 1 at half-past 12, London, div. joint and sep. ests.—*Samuel Notley*, Newman's-court, Cornhill, London, and Compton-street East, Middlesex, chocolate manufacturer, Feb. 1 at 12, London, div.—*James Kurton Morgan*, Clifton, near Bristol, draper, Feb. 2 at 11, Bristol, fin. div.

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## THE JURIST.

LONDON, JANUARY 14, 1860.

WE have on former occasions called the attention of our readers to the entire failure of the Statute-law Commission, and its wasteful and purposeless expenditure of the public money. We have also shewn in what manner we think the existing statute law may be best consolidated.

But while our law reformers are talking instead of acting, and their splendid and reiterated promises of a Victorian code are likely to be only in part performed, by the production at some remote period of a mere index, may not something be done to improve that mass thrown each session in a crude and undigested state before the people, under the name of "the public general statutes of the realm?"—may not something be suggested, and perhaps done, to lessen its bulk and to improve its quality? We will endeavour to make a few suggestions, and no doubt something will be done *if*, and we fear only *if*, independent members of Parliament will take up the subject, and force its consideration upon our legal functionaries, or upon the Government to which they belong.

The statutes passed by Parliament are divided into four classes: first, what are termed public general acts; secondly, local acts; thirdly, private acts, printed by the Queen's printer, and whereof the printed copies may be given in evidence; and, lastly, private acts not printed.

It is with reference to the first class—the public general acts—that we wish now to make a few remarks.

First with regard to lessening the bulk of the edition of the public general statutes issued after each session. There is no person, we are sure, whom necessity compels annually to purchase any authorised edition of our statutes, but what must, upon examination of them, feel that a very great part are utterly useless to him, and indeed worse than useless, as they serve only as incumbrances upon the rest, and to render it a more difficult task to get at what is really useful when he has occasion for it. He will find (notwithstanding the title of the volume) many statutes in reality of a merely local or personal, others of a merely temporary or fugitive, character.

To explain our meaning, let us (passing over the broken and disjointed session of 1859) examine the folio edition of the public general acts passed in the 21 & 22 Vict. It consists (without taking into consideration the titles of the local and private acts, and the index) of 249 pages. In the first place, a considerable reduction would be made if, in each session, the acts exclusively relating to Ireland, Scotland, our colonies, or India, were printed separately; but even assuming that such a plan might be deemed unadvisable, might not a very large proportion of the acts be printed in a separate volume, as public acts of a temporary, or local, or personal character?

Amongst the former might be reckoned the Mutiny and Appropriation Acts.

Amongst the latter we reckon inclosure acts, and acts

enabling public bodies or individuals either to acquire or deal with property—such, for instance, as “An Act to confirm a Contract for the Sale by the Commissioners of Her Majesty’s Works of certain Lands to the Commissioners of Chelsea Hospital,” (21 & 22 Vict. c. 21); “An Act for abolishing the Tolls now levied on the Bridge over the Shannon, at Portumna, in Ireland,” (21 & 22 Vict. c. 23); “An Act to confer Powers on the Commissioners of Her Majesty’s Works and Public Buildings to acquire the Theatre Royal, Edinburgh, and adjacent Property, for the Erection of a new General Post-office, and for other Purposes,” (21 & 22 Vict. c. 40); “An Act to give to the Universities of Oxford, Cambridge, and Durham, and the Colleges of those Universities, and to the Colleges of St. Mary of Winchester, near Winchester, and of King Henry the Sixth at Eton, Power to sell, enfranchise, and exchange Lands under certain Conditions; and also to grant Leases for Agricultural, Building, and Mining Purposes, and to deal with the Interests of their Lessees, under proper Reservations and Restrictions,” (21 & 22 Vict. c. 44); “An Act for the future Appropriation of the Tithe or Tenth of Lead Ores in the Parishes of Stanhope and Walsingham, in the County of Durham, belonging to the respective Rectors thereof, subject to the existing Incumbencies, and for making other Provisions for the Endowment of the said Rectories in lieu thereof; and for other Purposes connected therewith,” (21 & 22 Vict. c. 58); “An Act for enabling the Commissioners of Public Works in Ireland to acquire certain Lands and Houses for the Site of a new Court or Courts and other Offices and Buildings required for the Public Service, in extension of the Four Courts in the City of Dublin; and for other Purposes,” (21 & 22 Vict. c. 74); “An Act to make Provision for the better Government and Discipline of the Universities of Scotland, and improving and regulating the Course of Study therein, and for the Union of the two Universities and Colleges of Aberdeen,” (21 & 22 Vict. c. 83). Within the same category fall no less than four acts for confirming the schemes of the Charity Commissioners in different localities.

Now, these acts, and others of the same kind, are, no doubt, intensely interesting to the individuals or neighbourhoods specially concerned—viz. the persons desiring to deal, in a manner authorised by act of Parliament, with the Commissioners of Chelsea Hospital, and certain universities and colleges. The inhabitants in the neighbourhood of the bridge at Portumna will rejoice that they may now cross it without any demand upon their purses; the rectors of Stanhope and Walsingham, in the county of Durham, may be glad to have the question of the lead tithes of their respective parishes settled upon a convenient and equitable footing; and the two universities and colleges of Aberdeen may not regret to see the provisions for their better government and discipline enshrined in the pages of imperial legislation; but why should the general and public law be concealed and embarrassed under the superincumbent mass of what are neither more nor less than local and private enactments? If from the volume of statutes now under consideration (which is rather below the average size) had been excluded acts

merely of a local, personal, and temporary character, it would have been reduced by about two-fifths in bulk, and more than three-fifths if the acts relating to Ireland, Scotland, India, and the colonies had been printed separately. If this could be done annually (and we think it might) it would be no small gain to the public and the Profession.

Next, how can the quality of the statutes be improved? In considering this subject, we must remember that some bills are introduced by Government or their officers—others by private members of either House. For those belonging to the former class, being in their inception well drawn, Government are or ought to be responsible; but we fear that they are occasionally the handiwork, not of the most eminent members of the Bar, (who alone ought to be employed upon the task), but of young and inexperienced men, whose fitness or capacity for the task is not so much the reason for their selection, as other considerations, of such a character which often we cannot but see have too much weight with the dispensers of legal patronage. This is much to be regretted; for even if, in order to secure the services of a man of learning and eminence as a draftsman, a considerable sum might be required, to pay him freely and liberally would be found true economy. It would render unnecessary those acts to amend, or partially repeal, acts, which so frequently disfigure our statute law, and inflict much misery upon individuals, by the litigation rendered necessary to affix some meaning upon enactments, which to ordinary, and even sometimes to judicial minds, seem to be almost, if not quite, without any.

With regard to bills introduced by private members of Parliament, these, doubtless, vary more in their composition even than those brought forward by Government; often, doubtless, as in the case of the bills of Lord St. Leonards, they are most useful; in too many cases they are beyond measure crude in conception, and still worse in execution.

In discovering the defects in bills brought forward by private members, and, above all, in watching the effects of proposed amendments in all bills, Government should be assisted by an ample and well-paid staff, who should be considered responsible (not, of course, for the acts as passed) to Parliament and to Government for calling attention to all faults in bills as originally framed, or proposed to be altered by what are ordinarily and by courtesy styled amendments.

We do not see any obstacle in the way of the improvement of future volumes of the public acts, both in diminishing their size and improving their quality. Let this be done, and we may then wait, with such patience as we can afford, for the time when the consolidation of the statute law shall be attempted in earnest, by a man with sufficient energy and ability to carry it out.

In a late article on the subject of Domicil, (5 Jur., N. S., part 2, p. 463), after some general and introductory propositions, we proceeded to discuss the late cases. In doing this we cited some decisions bearing on the question of a man having two domiciles; the method of distinguishing where a man’s domicil is, when he has two regular residences; the consequences of death in itinere; and the effect of intention. We resume the thread of our remarks with a case in which an attempt was made to push the doctrine of intention to a great length.

A testator left England, his domicil of origin, and took up his residence at Hamburgh; and the facts shewed that he intended to live there permanently, and he did live and die there. But in a will made

during a visit to England he said, that, although he intended to return to Hamburg, he did not mean, by such declaration of intention, to renounce his domicile of origin. It was argued that such domicile was retained, as there was no animus in respect of that at Hamburg; but the Court decided that an expression of intention could not prevail against the intention and facts collected from the acts of the party, if otherwise sufficient to constitute a domicile abroad. (*In re Steer*, 28 L. J., Ex., 22).

In a still later case, (*Lord v. Colvin*, 5 Jur., N. S., part 1, p. 351; 28 L. J., Ch., 361), in which the facts referred to in the judgment are so lengthy that it would be impossible to state them in our pages, though they are well worth reading, and comparing with those in *Steer's case*, the following was the bare outline of the circumstances:—A Scotchman by birth, having property in Scotland, went to India, and remained there for many years. On his return he resided for five years on his property in Scotland, expending money upon such property, and considerably improving it. He then left Scotland in consequence of certain unpleasant domestic events, and went to Paris, where he resided for five years, purchasing expensive furniture, and keeping up an establishment there. During this time he still retained domesticity at his house in Scotland, and constantly gave directions by letter as to the superintendence of his property, and particularly as to the management of his horses and other animals. His furniture was left in Scotland, but ready packed up for immediate removal. Sir R. T. Kindersley, V. C., in delivering his judgment, said, amongst other things—“So far as relates to the factum of residence, there was undoubtedly such a residence in France as would be amply sufficient for the constitution of a French domicile. It remains to consider what was the animus. . . . We have a number of verbal declarations; . . . and I may observe, with regard to verbal declarations, that jurists seem to be of opinion (and I think the cases proceed on that) that verbal declarations are not of so much weight as written declarations, and that neither verbal nor written ones would be so effective as the acts of the parties in determining the question of domicile. . . . As to his acts and conduct, some acts tend one way, some the other. . . . His declarations, oral and verbal, are also inconsistent. . . . In such a state of things, what is the principle which ought to govern the decision of the Court? . . . There is one principle very well established, namely, that lighter evidence is required to warrant the conclusion that a man intends to abandon an acquired domicile, and to renounce his domicile of origin, than is necessary to justify the conclusion that he means to abandon his domicile of origin and acquire a new one. And another principle is that referred to by Lord Cranworth in *Whicker v. Hume*, namely, that it requires stronger and more conclusive evidence to justify the Court in deciding that a man has acquired a new domicile in a foreign country, than would suffice to warrant the conclusion that he has acquired a new domicile in a country where he is not a foreigner. . . . I think Dr. Cochrane did not abandon his Scotch domicile.”

We now come to those cases which bear on the second class of domiciles mentioned in our opening article, viz. domiciles impressed by law, as in the case of children, wives, ambassadors, officers, &c.

In the case of *Wright's Trusts*, (25 L. J., Ch., 621), an Englishman, retaining his English domicile, had an illegitimate child; he afterwards became domiciled in France, and there married the mother; and the question to be decided was the legitimacy of the

child. Sir W. P. Wood, V. C., in delivering his judgment, said—“Now, in order to come to a conclusion upon that state of facts, I shall first consider how the Courts in France and Scotland, where similar law prevails, deal with cases of persons who are clearly domiciled subjects of the country before whose tribunals the case comes to be tried. There are certain points clear. . . . The marriage must be celebrated according to the law of the country in which the persons happen to be; but when celebrated, the whole effect is that of the country to which the party belongs by domicile. . . . It has been settled in France, that if a domiciled Frenchman has a child in England, and marries there in English form, nevertheless the law of France prevails, and the child is legitimate. . . . And the House of Lords in *Munro v. Munro* held, that where a domiciled Scotchman, who had intercourse with an Englishwoman in England, and afterwards married her there, the child was legitimated. . . . So far the law is clear. . . . On the other hand, the converse is equally well settled in all countries, viz. that if a party affected by the law of England, and having an English domicile, were to have that connexion with any woman in France, and afterwards intermarry in France, the law of England would apply with respect to the domicile, and that the child would be illegitimate. . . . I do not think it has ever been found that the circumstances have occurred, which occur in this case, of a person domiciled at the time of the birth of the child in England, and domiciled . . . at the time of the marriage in France.” He then, after shewing that by the French law the question is, whether at the time of connexion there was any impediment to the marriage, and that the fact of an intermediate marriage does not matter, proceeds—“I apprehend, with regard to the English law, the offspring of any unmarried woman can be attributed to no father whatever, except for the purposes of the acts relating to bastardy; . . . and nothing done at any future period by the father can legitimate the child.” He then elaborately reviews *Sheddens v. Patrick*, (1 Macq. 612; 5 Jur., N. S., part 1, p. 151); Lord Cottenham's (7 Cl. & Fin. 873) and the Lord President's (1 Rob. App. Cas. 551) judgments in *Munro v. Munro*; *Conty's case*; and Lord Redesdale's expressions in *The Strathmore Peerage case*, (4 Wils. & Sh. App. 89); and comes to this decision:—“I think, on every point of principle, the law of domicile fastening in this instance on the child, you are driven into this difficulty—you can only make yourself legitimate by saying you are the child of an Englishman, and you cannot make yourself legitimate in any other way. Then, if you say you are the child of an Englishman, and you are obliged to concede that you were born at a period when that Englishman remained a domiciled Englishman, you concede that you were born before marriage, and that you are illegitimate, and nothing, it appears to me, after that, can establish a legitimate connexion between that Englishman and his child.” And in the conclusion of his judgment he makes some very important observations on the French law, the consequences of a different decision to the one at which he had arrived, and illustrates the necessity of the conflict of laws by the case of a marriage abroad with a deceased wife's sister, thereby forestalling the decision in the late case of *Brook v. Brook*, (4 Jur., N. S., part 1, p. 317; 27 L. J., Ch., 401).

(To be continued).

### Court Papers.

#### EQUITY CAUSE LISTS, HILARY TERM, 1880.

\* \* The following abbreviations have been adopted to abridge the space the Cause Papers would otherwise have

occupied:—*A.* Abated—*Adj.* Adjourned—*A. T.* After Term—*Ap.* Appeal—*C. D.* Cause Day—*Cl.* Claim—*C.* Costs—*D.* Demurrer—*E.* Exceptions—*F. C.* Further Consideration—*F. D.* Further Directions—*M.* Motion—*M. D.* Motion for Decree—*P. C.* Pro Confesso—*Pl.* Plea—*Ptn.* Petition—*R.* Rehearing—*S. O.* Stand Over—*Sh.* Short.

*Before the LORD CHANCELLOR and the LORDS JUSTICES.*

#### APPEALS.

Lodge v. Prichard (5) (Part heard, S., Nov. 18) *L. J.*  
Hindle v. Prichard { (Pt. hd., S., Nov. 26) *L. J.*  
Prichard v. Hindle {  
Wallis v. Wallis (K., Nov. 13) *L. J.*

Makings v. Makings (S., Dec. 22) *L. C.*

#### CAUSES.

Turton v. Lambarde (M D)  
Lambarde v. Turton (M D) } (Jan. 12) *L. J.*  
Green v. Jenkins (D of defendant to whole Bill of Review) *Full Court.*

*Before the Right Hon. the MASTER OF THE ROLLS.*

#### CAUSES, &c.

Morrison v. Barrow (Trial by jury, M D by order) *Jan. 10*  
Shepherd v. Harvey (M D)  
Low v. King (Cause)  
Hunter v. Wells (Cause)  
Maltby v. Cripwell (M D)  
Cattlin v. Smith (Cause)  
Bird v. Dingle (F C)  
Thomas v. Rawlings (Old E to further answer) *Jan. 13*  
Arnold v. Bainbrigg } (Ca.)  
Wolferston v. Bainbrigg } *Jan. 13*  
Moss v. Gregory (Cause)  
Pearson v. Benson (Cause)  
Jones v. Massey (Cau.) *A T*  
Smith v. Evans (M D) *A T*  
Cowell v. Gatcombe (F C)  
Robertson v. Armstrong (Ca.)  
Butterworth v. Winstanley (M D)  
Franks v. Brooker (M D)  
Paterson v. Rolland (M D)  
Whitehurst v. Davis } (F C)  
Barton v. Green }  
Fowke v. Parker (M D)  
Smith v. Pavier (F C)  
Bunn v. Malpass (F C)  
Charlesworth v. Haigh (F C)  
Hawkins v. Wolston (F C)  
Woodford v. Charnley (M D)  
Chapman v. Wright (M D)  
Hope v. Cave (M D)  
Cubitt v. Perrott (M D)  
In re Webb's Estate } (F C)  
Webb v. Rowe }  
Wallace v. Hunter (M D)  
Judd v. Plum (M D)  
Monk v. Cartwright (F C)  
Cheale v. Kenward (Cause)  
Dafforn v. Walker (M D)  
Chaplin v. Welch (M D)  
Parsons v. Perdew (M D)  
Stovold v. Nash (M D)  
Denny v. Pulman (M D)  
Stansfeld v. Wyatt (Cause)  
Pearson v. Beet (Cause)  
Wilson v. Beet (Cause)  
Allchin v. Bates (M D)  
Parks v. Turner (M D)  
Jones v. Jones (Cause)  
In re Wainwright's Estate } (F C)  
Wainwright v. Lloyd }  
Jackson v. Whitehead (M D)  
Williams v. Hearne (Cause)  
Moore v. Culverhouse (M D)  
Fox v. Garrett (F C)  
In re Fox } (F C)  
Miles v. Fox }

Shaw v. Davis (Cause)  
Harvey v. Bayfield (F C, Summons to vary)  
Drew v. Lockett (M D)  
Few v. Pugh (Cause)  
James v. Sympton (Cause)  
Brealey v. Brealey (M D)  
Jeffreys v. Conner (M D)  
Garrett v. Garrett (M D)  
In re Canney } (F C, adj. from ch.)  
Canney v. Canney }  
M'Leod v. Dowley (M D)  
Harrison v. Harrison (F C)  
In re Roebuck's Estate } (F C)  
Roebuck v. Allen }  
Brown v. Hodgson (F C)  
Greenfield v. Eaton (Cause)  
Bonville v. Bonville (M D)  
Chetham v. Heginbotham (M D)  
Dumelow v. Baker (F C)  
Elton v. Elton } (F C)  
Bayly v. Elton }  
Taylor v. Mellor (M D)  
Official Manager of the Plumstead, Woolwich, & Charlton Consumers Pure Water Co. v. Davis (Cause)  
Evans v. Hughes (M D)  
Roe v. King (M D)  
Jeffreys v. Machie (M D)  
Garnett v. Acton (F C, 2 summons to vary certificate)  
White v. Baker (Sp. case)  
Slee v. Benson (F C)  
Pfleger v. Browne (Cause)  
Woodman v. Muskett (F C)  
Clark v. Jeffreys (Cause)  
Musson v. Hackett (F C)  
Middleton v. Middleton (F C)  
In re Saffery's Estate } (F C)  
Knight v. Saffery }  
Wright v. Pagen (F C)  
Lloyd v. Cocker (Sp. case)  
Neighbour v. Thurlow (M D)  
Thompson v. Corby (F C)  
Humphries v. Brown (M D)  
Scott v. Colburn (F C)  
Kelso v. Kelso (F C)  
Jones v. Biron (F C)  
Edwards v. Stovold (M D)  
Walker v. Evans (Cause)  
Brace v. Lefaux (M D)  
Marks v. Woolf (M D)  
Kell v. Horry (M D)  
Parsons v. Beebees (S) (M D)  
James v. Thomas (Cl)  
Knight v. Knight (M D)  
Piggott v. Clerk (M D)  
Knight v. Baker (M D)

Bousfield v. Bousfield (M D)  
Windsor v. Trust (F C)  
Holdernest v. Rankin (Cause)  
Copsey v. Copsey (Sup. Cl)  
Phillips v. Normandy (M D)  
Brightwell v. Hart (M D)  
Gray v. Thompson (F C)  
Punt v. Eaton (M D)

Kirby v. Dukes (M D)  
Tayleur v. Tayleur (M D)  
Lomas v. Catley (M D)  
Tanner v. Balme (F C)  
Elliott v. Webster (M D)  
Harris v. Ross (Cause)  
Ellis v. Cheers (M D)  
Drew v. Cater (M D)

*Before the Vice-Chancellor Sir RICHARD T. KINDERSLEY.*

#### CAUSES, &c.

Lord v. Colvin (Cause)  
Colvin v. Lord (Cause)  
Cochrane v. Cochran } (Pt. re-hear.)  
Barton v. Colvin }  
Lord v. Colvin }  
Same v. Same }  
Same v. Same }  
Wason v. Westminster Improvement Commissioners (M D)  
Eggar v. Terry } (M D)  
Eggar v. Terry }  
Stansfeld v. Terry (M D)  
Lambe v. Orton (M to vary certificate, F C)  
Brooks v. Keith (Cause)  
Bradshaw v. Bradshaw (F C)  
Ward v. Talbot (F C)  
West v. Chard (M D)  
Bell v. Phillips (Cause)  
Day v. Day (F C)  
Morton v. Puzey (M D)  
Punt v. Punt (Special case)  
Pancridge v. Wall (Cause)  
Lambert v. Turner (M D)  
Pemberton v. M'Gill (F C)  
Woods v. Duplessis (Cause)  
Bush v. Peterson (F C, Summons to vary certificate)  
Bawcombe v. Bristow (F C)  
Parkinson v. Hanbury (Cau.)  
Jefferson v. Jefferson (F C)  
Ollershaw v. Lund (F C)  
Clayton v. Haynes (F C)  
Lee v. Lee (F C)  
Prior v. Unett (M D)  
Sells v. Sells (Cause)  
Ward v. Filmer (Cause) *A T*  
Nazer v. Drayson (Cause)  
Ward v. Shakeshaft (Cause)  
Alliston v. Chapple (Cause)  
Mayhew v. Mackenzie (F C)  
Shuttleworth v. Bristo (Cau.)

Whitehead v. Bennett (7) (F C)  
Att-Gen. v. Great Northern Railway Co. (M D)  
Lord Lovat v. Duchess Dowager of Leeds (M D)  
Buck v. Sharp (M D)  
Stephens v. Heathcott (M D)  
Wards v. Dickson (Cause)  
Jones v. Gloster (M D)  
Troutbeck v. Boughey (Cau.)  
Onion v. Platt (M D)  
M'Gill v. Shuter (F C)  
Innes v. Mitchell (Cause)  
Lawrence v. Pennington (M D)  
Smedley v. Potter } (F C)  
Shilton v. Potter }  
John v. John (M D)  
Swettenham v. Richardson (Cause)  
In re New Brunswick and Canada Railway and Land Co. v. Muggeridge (Cause)  
In re Wiltshire's Estate } (F C)  
Wiltshire v. Little }  
Shaw v. Johnson (Cause)  
Oringe v. Pickford (F C, Summons)  
Faulkner v. Phipps (Cl)  
Hill v. Hill (Special case)  
Lee v. Rennard (F C)  
Willoughby v. Wilkinson (M D)  
Webster v. Le Hunt (Cause)  
Le Hunt v. Webster (Cause)  
Grimby v. Webster (Cause)  
Fry v. Dadsdell } (F C)  
Mackelov v. Dadsdell }  
Howard v. Robinson (M D)  
Stapleton v. Stapleton (F C)  
Craig v. Wheeler (F C)  
Ogilvie v. Smith (Cl)  
Alston v. Sims (F C)

*Before the Vice-Chancellor Sir JOHN STUART.*

#### CAUSES, &c.

Hill v. Fackrell (M D) *A*  
Fleming v. Fleming (M D) *A, Sh*  
Kay v. Denwood (E to answer)  
Mills v. Barlow (E to answer)  
Gulon v. Trask (D)  
Adams v. Williams (M D) *A T*  
Johnson v. Weston (M D) *A T*  
Griffiths v. Cowper (Cause)  
Woolnough v. Gregson (M D)  
Eversfield v. Clark (M D)  
Acraman v. James (Cause)  
Bindley v. Simpson (M D) *S O*  
Sparkman v. Holbrook (F C)  
Piggott v. Piggott (F C, Summons)  
Graham v. Burton (F C)

Ogilvie v. Jeaffreson (M D, Part heard)  
Clarke v. Bruges (F C, M to vary certificate)  
Clinton v. Cooper (Cause)  
Hopcraft v. Brooke (F C)  
Bruges v. Cooper (F C)  
Greenway v. Greenway } (F C)  
Greenway v. Greenway }  
Danford v. Davies (Sp. case)  
De Doff v. Derbyshire, Staffordshire, and Worcester-shire Railway Co. (F C)  
King v. Pugh (F C)  
Whitaker v. Houghton (M D)  
Scott v. Cole (M D)  
Parkinson v. Buck (Cause)  
Rivers v. Tombs (F C)  
Meud v. Lyons (M D)  
Barham (pauper) v. Scott (Cause)

Furber v. Meakin (M D, Summons)  
Carmichael v. Boyle (F C)  
Wheeler v. Thomas (M D)  
Lamb v. Langley (F C)  
Creaton v. Creaton (F C)  
Child v. Ward (F C)  
Elwes v. Cook (M D)  
Parkin v. Parkin (M D)  
Rose v. Turtle } (F C, M)  
Rose v. Turtle }  
Cooper v. Elworthy (Cause)  
Steele v. Yates (Cause)  
Merry v. Shaw (F C)  
Boughton v. Jervis (M D)  
Bundock v. Hunt (Cause)  
Jones v. Roaser (M D)  
Delevante's Estate } (F C)  
Delevante v. Child } from ch.)  
Case v. Case (M D)  
Morris v. Rogers (M D)  
Harrison v. Wardell (M D)  
Chetwynd v. Wilson } (M D,  
Vere v. Wilson } F D C)  
Perry v. Holl (Cause)  
Perry v. Parkinson (Cause)  
Knight v. Knight (M D)  
Morrall v. Butterfield (F C)  
Pulbrook v. Taylor (Cause)  
Ashmore v. Bulford (M D)  
Ruddle v. Street (Cause)  
Mathews v. Chichester (Cau.)  
Carrington v. Smedley (Cl)  
Burgoyne v. Scott (M D)  
Lyons v. Atcherley (M D)  
Reeve v. Coyde (M D)  
Tayleur v. Tayleur (M D)  
Barne v. Barne (M D)  
Parsons v. Turner (Cause)

Clark v. Richmond (M D)  
Tabay v. Scott (F C)  
Slim v. Croucher (M D)  
Robertson v. Norris } (M D)  
Brooman v. Norris }  
Mellor v. Mellor (M D)  
Rogers v. Stickley (F C)  
Bellingham v. Stewart (F C)  
Carter v. Rennison (F C)  
Oliver v. Gibb (M D)  
Birtwistle v. Birtwistle (M D)  
Williams v. Skottowe (M D)  
Sayce v. Kirkwood (Cause)  
Legg v. Mathieson (M D)  
Burnett v. Burnett (F C)  
Kennard v. Futvoye (M D)  
Smith v. Clark (M D)  
May v. May (M D)  
Graham v. Forster (Cause)  
Grant v. Butler (Cause)  
In re Brett's Estate } (F C)  
Reynolds v. Lewis }  
Reid v. Stearn (Cause)  
Harrison v. Mayor of Southampton (F C)  
Jenkins v. Jones (Cause)  
Wrigglesworth v. Fisher (M D)  
Jacobs v. Shirreff (F C)  
Scott v. Fisher, jun. (Cause)  
Boston v. Richardson (F C)  
Newsome v. Costcker (M D)  
Wheelwright v. Coe (Cause)  
Garsden v. Dugdale (M D)  
Radley v. Ingram (M D)  
Tate v. Mount (M D) Sh  
Dodd v. Dodd (M D)  
Giles v. Hart (M D)  
Bunton v. Gent (F C).

Milburn v. Gregory (M D)  
Gibbons v. Hopper (F C)  
Milburn v. Gregory (Cause)  
West End of London & Clapham & Norwood Junction Railway Co. v. Bridges (M D)  
Cooper v. Cartwright (M D)  
Webster v. Bridgewater (F C)  
Taylor v. Taylor (M D)  
Parker v. Phillips (F C)  
Brown v. Jarvis (F C)  
Wilson v. Raynor (M D)  
Richards v. Richards (F C)  
Churchill v. Clonbrock (F C)  
Standen v. Packer (M D)  
Jackson v. Mallaby (M D)  
A T  
Duff v. Duff (F C)  
Grant v. Mussett (M D)  
Shaw v. Postlethwaite (Cause)  
Walker v. Walker (F C)  
Gover v. Hobbs (M D)  
Namur and Liege Railway Co. v. Ponsford (F C, M)  
Taylor v. Yates (Cause)  
Naah v. Allen (F C, Summons to vary certificate)  
Webster v. Dean (Cause)  
Jaques v. Jaques (M D)  
Knapp v. Burnaby (Cause)  
Dudley and West Bromwich Banking Co. v. Spittle (Ca.)  
Hare v. London and North-western Railway Co. (Cau.)  
Blake v. Shaw (Cause)  
Hall v. Wilson (M D)  
Pope v. Lahey (Cause)  
Blake v. Holford (F C)  
Williams v. Jackson } (M D)  
Williams v. Perry }  
Baty v. Chapman (M D)  
Fairbridge v. Bradley (M D)  
Cross v. Bridge (M D)  
Smith v. Pybus (M D)

French v. Bond (Cause)  
Billing v. Phillips (Cause)  
Stone v. Child (Cause)  
Suffell v. Thompson (F C)  
Pardoe v. Hopkins (F C)  
H. E. Agnese, Duchess Di Sorì v. Prince Borghese (Cause)  
Huntley v. Hawkins (M D)  
In re Archbold's Estate } (F  
Pears v. Bownes } C)  
Galger v. Malkin (F C)  
Hadley v. Smith (Cause)  
Ward v. Day (M D)  
Pinder v. Pinder (M D)  
Goldsmid v. Haswell (M D)  
Chittenden v. Lawford (F C)  
Stroud v. Gwyer (M D)  
Kynnersley v. Sneyd (M D)  
Broad v. Vincent (Cause)  
Bidwell v. Walters (M D)  
Charlton v. Newcastle-on-Tyne and Carlisle Railway Co. (M D)  
Cawx v. Foster (Sp. case)  
Cook v. Humphrey (M D)  
Maud v. Maud (M D)  
Adamson v. Birkenhead Docks (F C)  
Johnson v. Johnson (M D)  
Furley v. Hyder (F C)  
Piper v. Piper (Special case)  
Collins v. France (M D)  
Fullbrook v. Ilbrey (M D)  
Seymour v. Hutley (M D)  
Harcourt v. White (Cause)  
Gibson v. Shaw (M D)  
Brown v. Harte (Cause)  
Kennedy v. Kelly (M D)  
Bligh v. Davies (M D)  
Wells v. Wood (F C)  
Wallis v. Haynes (M D)  
Pee v. Round (M D)  
Rowland v. Allpress (Cl)  
Shaw v. Shaw (M D).

### Before the Vice-Chancellor Sir W. P. Wood.

#### CAUSES, &c.

Perez v. Hamer (D)  
Concha v. Concha (E to ans.)  
Rhodes v. Rhodes (E, F C, Summons)  
Ingham v. Potts (M D)  
Smith v. Lancaster (M D)  
Yearsley v. Behrens (M D)  
Jones v. Peppercorn (F C)  
Gwyn v. Watney (Cause) 2nd C D  
Walker v. Kidger (Cause) A T  
Lorkin v. London and North-western Railway Co. (Cau.) A T  
Nichols v. Ibbetson (M D)  
Morgan v. Morgan (Cause)  
Hancock v. Bewley (Cause) 1st C D  
Harrington v. Churchward (Cause)  
Smyth v. Boddington (Cause)  
Phippen v. Bath (F C)  
Walters v. Morgan (M D)  
Earl of Shrewsbury v. Trappes (Cause)  
Raingill v. Glegg (M D)  
Botts v. Cooper (Cause, part heard) Easter Term  
Pledge v. Buss (M D)  
Mitchell v. Colls (M D)  
Hall v. Cook (F C)  
Wytherley v. Bernard (F C)  
Whalley v. Ramage (Cause) A T  
Joel v. Mills } (F C)  
Hervey v. Mills }  
Grafton v. Morgan (F C)

Hunt v. Peake (M D)  
Drummond v. Tracey (M D)  
Proud v. Dunn (M D)  
Buscott v. Tugwell (F C)  
Lee v. May (F C)  
Burch v. Bright (M D)  
Harford v. Knollys (M D)  
Southcomb v. Hamilton (M D)  
Melton v. Day (Cause)  
Morrison v. Eckford (F C)  
Lackersteen v. Lackersteen (M D)  
Manning v. Petherick (Cau.)  
Rumball v. George (F C)  
Wooldridge v. Wooldridge (M D)  
Godwin v. Cavendish (F C)  
Elloart v. Dugdale (M D)  
Dewsbury v. Shone (M D)  
Colthurst v. Codrington (Ca.)  
Long v. Dawson (M D)  
Firth v. Longbottom (M D)  
Kyd v. Batchelor (Sp. case)  
Ekins v. Morris (F C)  
Rusby v. Carter (Cause)  
Abbott v. Blair (F C, M)  
Roebuck v. Knipe (Sp. case)  
Pilcher v. Randall (M D)  
Ewing v. Liverpool Borough Bank (M D)  
Smith v. Lomas (Cause)  
Hughes v. Jones } (F C)  
Roberts v. Jones }  
Bunny v. Bunny (F C)  
Pares v. Burnaby (F C)  
Dickens v. Unthank (F C)  
Bernard v. Beacon (M D)

#### CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

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- WILLIAM STRANGE**, Strand, Middlesex, printer, Jan. 20 at half-past 1, and Feb. 24 at 1, London: Off. Ass. Whitmore; Sol. Ablett, 6, Newcastle-street, Strand.—Pet. f. Jan. 12.
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- RALEY MIDDLEWOOD and JOHN MIDDLEWOOD**, Leeds, Yorkshire; linendrapers, Jan. 30 and Feb. 27 at 11, Leeds: Off. Ass. Hope; Sol. Simpson, Leeds.—Pet. d. Jan. 10.
- JOHN ROWLASON and THOMAS BROOKS**, Liverpool, builders, Jan. 23 and Feb. 15 at 11, Liverpool: Off. Ass. Morgan; Sols. Evans & Co., Liverpool.—Pet. f. Jan. 9.
- JOSEPH BENTLEY the elder and JOSEPH BENTLEY the younger**, Liverpool, gun makers, Jan. 20 at 12, and Feb. 17 at 11, Liverpool: Off. Ass. Turner; Sol. Pemberton, Liverpool.—Pet. f. Jan. 6.

## MEETINGS.

*John Corbett and Hugh Woodney Corbett*, Liverpool, merchants, Feb. 10 at 11, Liverpool, ch. ass.—*H. Johnson*, Spencer-road, Stoke Newington-green, and St. James's-walk, Clerkenwell-green, Middlesex, house decorator, Feb. 3 at 11, London, aud. ac.—*Wm. Henry Knight*, Powell-street, Kingsquare, St. Luke's, Middlesex, watch-tool dealer, Feb. 3 at half-past 11, London, aud. ac.—*Frederick Richetts and Trevenen James*, Moorgate-street, City, merchants, Jan. 26 at 12, London, aud. ac. sep. est. of *Frederick Richetts*.—*Geo. Watkins Watts*, Red Lion-place, Giltspur-st., City, wholesale cheesemonger, Jan. 26 at 12, London, aud. ac.—*C. Harris*, Pangbourne, Berkshire, and Cricklade, Wiltshire, draper, Jan. 26 at 12, London, aud. ac.; Feb. 6 at half-past 2, div.—*John Ronald Lyon*, Cambridge, brewer, Jan. 26 at 12, London, aud. ac.—*Isaac Davis*, Bristol, cigar manufacturer, Feb. 9 at 11, Bristol, aud. ac.; Feb. 16 at 11, div.—*R. Gill*, Black Banks, near Darlington, Durham, brick manufacturer, Jan. 25 at half-past 11, Newcastle-upon-Tyne, aud. ac.—*G. Griffith Chester*, Shrewsbury, Shropshire, tailor, Jan. 23 at 11, Birmingham, aud. ac.—*Louis Lesser and Jacob Lesser*, Tipton, Staffordshire, shoe manufacturers, Jan. 25 at 11, Birmingham, aud. ac.—*Geo. Henry Edwards*, Birmingham, victualler, Jan. 23 at 11, Birmingham, aud. ac.—*J. Phillips*, Birmingham, wood turner, Jan. 25 at 11, Birmingham, aud. ac.—*James Barnard the younger*, Aldershot, Southampton, licensed victualler, Feb. 3 at 11, London, div.—*C. Carter*, Terrace, Tower-hill, City, sack merchant, Feb. 3 at 1, London, div.—*Daniel Francis Oakey*, Paternoster-row, City, bookseller, Feb. 3 at 12, London, div.—*Baer Adolph Mannheim*, Fore-st., Cripplegate, City, shoe manufacturer, Feb. 3 at 1, London, div.—*Charles Warwick*, Chesapeake, City, warehouseman, Feb. 6 at 11, London, div.—*Daniel White*, Bristol, haulier, Feb. 16 at 11, Bristol, div.—*D. Alexander Inghis*, Liverpool, commission agent, Feb. 3 at 11, Liverpool, div.—*Elizabeth Berry*, Birkenhead, Cheshire, hotelkeeper, Feb. 3 at 11, Liverpool, div.

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*John Robert Fitch*, Hatton-garden, Middlesex, jeweller, Feb. 3 at 1, London.—*William Layton*, Landport, Portsea, Hampshire, shoemaker, Feb. 3 at 12, London.—*Henry Johnson*, Spencer-road, Stoke Newington-green, and St. James's-walk, Clerkenwell-green, Middlesex, house decorator, Feb. 3 at 11, London.—*Charles Harris*, Pangbourne, Berkshire, and Cricklade, Wiltshire, draper, Feb. 6 at 2, London.—*Thomas Henry Fairhall and William Suter the younger*, London-road, Southwark, Surrey, ironmongers, Feb. 4 at 11, London.—*Henry Grant*, Cardiff, Glamorganshire, shipchandler, Feb. 7 at 11, Bristol.—*Thomas Simister*, Liverpool, pastrycook, Jan. 31 at 12, Liverpool.

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## TUESDAY, Jan. 17.

## BANKRUPTS.

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- WILLIAM RUSSELL GROVER**, Hand-court, High Holborn, Middlesex, licensed victualler, Jan. 27 at half-past 12, and Feb. 24 at 12, London: Off. Ass. Cannan; Sols. Blakeley & Stone, 5, Barge-yard, Bucklersbury.—Pet. f. Jan. 14.
- CHARLES PAVIA**, Lime-street, City, merchant, Jan. 31 and Feb. 29 at 12, London: Off. Ass. Graham; Sols. Dimmock & Burbey, 2, Suffolk-lane, London.—Pet. f. Jan. 16.
- GEORGE WHITE**, Birmingham, grocer, Jan. 30 and Feb. 20 at 11, Birmingham: Off. Ass. Whitmore; Sols. Southall & Nelson, Birmingham.—Pet. d. Jan. 16.
- JOHN PECK**, Birmingham, brass cock founder, Jan. 27 and Feb. 23 at 11, Birmingham: Off. Ass. Whitmore; Sols. Harrison & Wood, Birmingham.—Pet. d. Jan. 13.
- PHILIP ANDREW**, Swansea, Glamorganshire, brewer, Jan. 31 and Feb. 28 at 11, Bristol: Off. Ass. Miller; Sol. Nash, Bristol.—Pet. f. Jan. 6.
- GEORGE DIXON, WILLIAM DIXON, and JOSEPH DIXON**, Ecclesfield, Yorkshire, steel rollers and filter dealers, Jan. 28 and March 3 at 12, Sheffield: Off. Ass. Brawn; Sols. Smith & Burdekin, Sheffield.—Pet. d. Jan. 7.

## MEETINGS.

*Stephen Nelson*, Sowerby, near Thirak, Yorkshire, builder, Jan. 27 at 11, Leeds, ch. ass.—*Samuel Kuttner and Robert C. White*, Kingston-upon-Hull, shipowners, Feb. 8 at 12, Kingston-upon-Hull, aud. ac. and div.—*Edward Baldwin*, Shoe-lane, City, printer, Feb. 9 at 11, London, div.—*Wm. Henry Turner*, Bishopsgate-street Without, City, draper, Feb. 7 at half-past 12, London, div.—*C. A. Clark*, Newgate-street, City, silk merchant, Feb. 7 at 12, London, div.—*H. Hobbs and G. Tilley*, St. George's-wharf, Cambridge-street, Old St. Pancras-road, and Southall, Middlesex, and Earl-street, Blackfriars, London, brickmakers, Feb. 8 at 12, London, div.—*John Baker*, Blagdon, Somersetshire, scrivener, Feb. 9 at 11, Bristol, fin. div.—*James Ford*, Wolverhampton, Staffordshire, butcher, Feb. 9 at 11, Birmingham, div.—

[For continuation of Gazette, see p. 15, col. 2.]

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## THE JURIST.

LONDON, JANUARY 21, 1860.

SOME short time since we undertook the task of collecting those cases on the law of domicile which have been decided within the last ten years. In our first article we gave a general sketch of the law, and of the divisions into which it was generally divided; and then, in that and an ensuing article, we proceeded to take the late cases, according as they bore on the order in which we had stated the general principles. In the latter article we had proceeded as far as the question of domicils impressed by law, and had cited the recent cases which related to minors. We now resume our subject, and continue the same section of it, with the decisions respecting the domicile of a married woman.

Where the wife of a domiciled Englishman lived apart from him, without a legal separation or divorce, it was held that she could not acquire a foreign domicile. (*In re Daly's Settlement*, 4 Jur., N. S., part 1, p. 525; 27 L. J., Ch., 751). But although, as a general proposition, a wife cannot acquire a domicile separate and distinct from her husband, yet it seems that where there is a decree for judicial separation, or the husband has established himself permanently in a foreign country, and deserted his wife, or been transported, such a power may exist. (See *Dolphin v. Robins*, 5 Jur., N. S., part 1, p. 1271). And the ordinary presumption, that a wife is legally domiciled where her husband is,

fails where there has been a sentence of divorce. (*Williams v. Dormer*, 2 Robert. 505).

In 1819 a Sardinian came to England, and became attached to the Sardinian embassy. In 1821 he was dismissed, but he continued for ten years to reside in England. He was then for three years chargé d'affaires in London, and for three years minister in Holland. In 1837 he was appointed envoy extraordinary and minister plenipotentiary to England, and retained that office till his death in 1846. It appeared that he always called London his home, even when temporarily in Turin, and expressed his intention of never leaving England, even if his appointment were cancelled, and of being buried near his daughter in Kensal-green Cemetery. (*Heath v. Samson*, 14 Beav. 441). It was held that his domicile was English.

Where (*Forbes v. Forbes*, cited in previous article, and reported in Kay, 341; 18 Jur., part 1, p. 642; 23 L. J., Ch., 724) a minor, having a Scotch domicile, left Scotland in 1787 for India, with an appointment in the East India Company's service, and remained there till he returned on furlough in 1808, it was held that his Scotch domicile had ceased by the acquisition of an Anglo-Indian one; Sir W. P. Wood, V. C., saying that the question did not turn on the simple fact of the party being under an obligation by his commission to serve in India; but where an officer accepted a commission or employment, the duties of which necessarily required residence in India, and there was no stipulated period of service, and he proceeded to India accordingly, the law, from such cir-

cumstances, presumed an intention consistent with his duty, and held his residence to be *animo et facto* in India.

In this case the officer had real estate in Scotland; but, without residence, this fact was considered of no importance. On his return he built a mansion-house on his estate in Scotland, took great interest in its progress, resided near it very frequently during the four years of his furlough, and expressed his hope of returning permanently to Scotland, but returned to his service in India, as he had always intended. These facts were not considered a destruction of his Anglo-Indian domicile.

We now, in conclusion, come to those remaining cases which, although they do not lay down any legal propositions, still illustrate the relative value of different facts in determining a man's domicile.

An English gentleman, (*Hoskins v. Mathews*, 2 Jur., N. S., part 1, p. 196; 25 L. J., Ch., 689), long before his death, took up his abode in a house which he had purchased in a foreign city, set up his establishment there, lived there with such of his children as were not at school or out in the world, and destined that place for their future residence; from thence he went, and habitually returned; he died in the country where he had purchased this house, having made a will in the language of that country, but not effectual for disposing of his property there, and a will in the English form, giving away all his other property, which was personal. Sir W. P. Wood, V. C., decided that his domicile was foreign; and Sir G. J. Turner, L. J., on appeal from this decision, held, that where the residence of an Englishman in a foreign country is a matter of necessity upon account of health, change of domicile is not effected; but if the state of his health is such that a residence abroad is adopted as most beneficial, and is the result of choice, a change of domicile will be effected: that he thought the latter was the state of the case before him, and the domicile therefore foreign. From this judgment Sir J. L. Knight Bruce, L. J., dissented, and the judgment of Sir W. P. Wood, V. C., consequently stood affirmed.

In a case (*The Attorney-General v. Fitzgerald*, 25 L. J., Ch., 743) decided a few months after the above, but without its being cited, the following facts appeared:—A testator, having an Irish domicile of origin, in 1790 went to India, and entered into a business partnership, which was dissolved in 1800. In 1802 he came to England, took an assignment of a leasehold house in London, and purchased the furniture in the house. In 1811 he sold the house and furniture, and went to reside at Clifton, and remained there till 1812. In that year he went to Madeira for his health; he there made his will; and in 1815 he went to Lisbon by advice, and there died. When he went abroad he had left a trunk of papers in England, and while absent he had expressed an intention to live in Ireland if his life was spared. Sir R. T. Kindersley, V. C., without noticing the distinction taken by Sir G. J. Turner, L. J., said, that as Madeira was a fit place for persons suffering under his disorder, he did not doubt that he only went there to restore his health, and that his domicile was English.

A testator, who was an English-born subject, and an officer in the Royal Navy on half-pay, in 1829 obtained leave of absence for the purpose of going to India, and went to Calcutta, where he established a lucrative business. In 1830 he married, and subsequently had three children born in Calcutta. He continued to receive his half-pay, and to obtain renewals of his leave of absence, until 1839. In that year he made his will, and died at Calcutta, without having at any time returned to England. Sir R. T. Kindersley, V. C., after remarking on the fact of the English law not agreeing with some foreign jurists on the question of ten years'

residence, and of the unimportance of the deceased being on half-pay, decided that his domicile was Indian. (*Cockrell v. Cockrell*, 2 Jur., N. S., part 1, p. 727; 25 L. J., Ch., 730).

A testator, whose *domicilium originis* was Ireland, where he inherited considerable estates, abandoned such domicile, and by a long residence in England acquired an English one. In the year 1836 he sold his house and furniture, and, breaking up his establishment in England, went to reside in France, where he bought and furnished a house, in which he resided permanently (cohabiting with a French woman) till the period of his death in 1849. With the exception of occasional visits of short duration to England for purposes of business relating to his estates in Ireland and his property in the English funds, he never quitted this residence. It was held, under such circumstances, that the testator's domicile was French, and was not affected by his having expressed his intention to return to England in an event which never happened, or of his having on one occasion, when in England, executed a will according to the English form and law, or from the circumstance that the bulk of his property was in the English funds. (*Anderson v. Lanenville*, 9 Moo. P. C. 325).

A man born in Scotland, of Scotch parents, and educated there, in 1780 went to the East Indies, where he remained, as a surgeon in the East India Company's service, until 1804, when he came to England on leave of absence, but never returned to India, and in 1809 retired from the company's service upon a pension, and on the pay of his rank. For two years after leaving India he resided near London, but he made donations to various institutions in Scotland. At the end of 1806 he went to Edinburgh, and embarked in the business of a banker. He purchased a house there, married, and then caused his mother to return from abroad to Scotland. In 1815 his affairs became embarrassed. In 1817 he came to London, and continued to reside in England till 1828, occupying furnished lodgings. He caused his house and furniture in Edinburgh to be sold, and his books to be sent to London, and occupied himself in the sale of various oriental works, of which he was the author, and in lecturing on Hindostanee and other oriental languages, chiefly under the auspices of the East India Company. Between 1817 and the time of his death he also projected various undertakings, of which he was to be director, and resided in London: he paid three short visits to Scotland, and in 1825 he went to Belgium, and from that time continued to visit the continent. In 1833 he returned to England, but in 1834 he again visited France, and remained for longer periods than at first; and in 1837 he took a lease for a term of years of some premises in Paris, in which he resided, (occasionally visiting England), and in which he died in 1841, having executed a will according to the English law, in which he described himself as of Edinburgh. Upon exceptions to the Master's report, finding that the testator's domicile was in England, it was held, that in 1817 the testator was domiciled in Scotland; that he subsequently became domiciled in England, and was so in 1827; and that it was not changed at the time of his death. (*Whicker v. Hume*, 13 Beav. 366; 16 Jur., part 1, p. 391; 20 L. J., Ch., 399).

A Scotchman, a surgeon, came to England, and was appointed hospital mate in the Haslar Hospital. He subsequently was appointed an assistant surgeon, and afterwards surgeon on board various ships of the Royal Navy. He was then for several years employed under the Admiralty on board various convict ships, and also upon other medical duties. During this time, he twice, while on half-pay, revisited Scotland, and remained there up to the time of obtaining employment, but he ultimately, while on duty, died at Malta. Although he had removed all his goods and his sister (his only rela-

(ive) from Scotland, it was held that he had not lost his domicile of origin. (*Brown v. Smith*, 15 Beav. 444; 21 L. J., Ch., 356).

—Again: a testatrix lived with her husband on his estate in Suffolk till his death in 1843: on the sale of that estate, in the same year, she removed, with her plate and furniture, to a place near Wakefield, where a son-in-law had taken a house, and lived there with her son-in-law and daughter till 1844. In that year they all left, the testatrix warehousing her furniture near Wakefield, and leaving her plate at her banker's in London, to whom she gave a power of attorney to receive all money due to her, her property consisting of an annuity out of Barbadoes property, money in the funds, and railway shares. They wintered together abroad, and from that time till her death the testatrix resided abroad at different places, in consequence of rheumatism, but generally passed the summer in England. During her latter years, however, she resided with her son in a house in France, which she had encouraged him to take, and eventually built a house there, (which remained unfurnished at the time of her death), and had some of her furniture removed from England. A great mass of declarations and conversations were given in evidence both in favour of an English and a French domicile. Sir C. Cresswell, after stating the facts at length; stating the law to be that no man could have two domicils for the purposes of succession, and that his forum originis remained till he had acquired another, and manifested and carried into execution an intention of abandoning his former domicile; and finally discussing most elaborately the different portions of the evidence; determined that it was impossible to say that the testatrix, animo et facto, had abandoned her English domicile. (*Crookenden v. Fuller*, 5 Jur., N. S., part 1, p. 1222). It may, perhaps, be worth remarking, before we leave this case, that it therein appeared that, according to the law of France, if a Frenchman were to come to London for a day, and there make his will in English form, his will would be a good one.

## Correspondence.

### PRIVATE ACTS.

TO THE EDITOR OF "THE JURIST."

SIR,—A mistake is annually made by the framers of private acts, which perhaps a notice in your paper will put a stop to.

The clause invariably inserted in such acts, that "a copy of it printed by the Queen's printers may be given in evidence," &c., was always of a most Hibernian character; for it is evident that, in strictness, "judges, justices, and others" could have no more judicial knowledge of that very clause than of any other part of the act, and they were consequently called on to admit the printed copy in evidence on the strength of an enactment with which, by hypothesis, they were bound to be unacquainted. However, it served a purpose once, but now it is no longer needed, for by the 8 & 9 Vict. c. 113, s. 3, it is enacted, that "all copies of private and local and personal acts of Parliament, not public acts, if purporting to be printed by the Queen's printers," shall be admitted as evidence thereof &c. The clause, therefore, is superfluous, and should be omitted. The declaration usually coupled with it, "that this act shall not be a public act," must, however, be retained, being rendered necessary by the 13 & 14 Vict. c. 21, s. 7, which enacts, that every act shall be deemed a public act, "unless the contrary be expressly provided and declared by such act," which is Hibernian too, for how are judges, justices, and others to know that they are not to know the act, except by taking judicial notice of this clause, which is part of it?

Lincoln's-inn, Jan. 16, 1860.

M. I. B.

TO THE EDITOR OF "THE JURIST."

SIR,—My attention has been drawn to some remarks in a review of my two Lectures on the Admiralty Court in *The Law Times*. It is but fair to you to state, that your publication of my two Lectures in extenso was with my entire consent. So far from objecting, I considered your publishing of them a compliment, especially as you had never, I believe, reported anything of the kind before in *THE JURIST*. It was, too, quite spontaneous. I did not know of it till I saw the report of the first portion. I then offered to and did correct the proof sheets of the second portion.

I was influenced to publish the Lectures in a separate form, not with any notion of profit, (indeed, I would not appropriate any profits there might be), but that my friends might possess a carefully corrected copy of the Lectures, with some additional notes, which I think will be found useful and valuable, but which I could not give before.

I am, Sir, yours obediently,  
Old Jewry, Jan. 17, 1860.

J. MORRIS.

## Revising.

*The Consolidated General Orders of the High Court of Chancery, with Regulations as to certain Fees and Charges. (By Authority).*

[*Stevens & Norton, London.*]

THE Profession may now be congratulated upon having before it, what has been so long needed, the Consolidated Orders of the Court of Chancery.

Up to the present time practitioners in the Court of Chancery must be well aware of the difficulties which were continually occurring from the complexity, discrepancy, and confusion of the Orders. Until of late years each Chancellor issued what Orders he thought fit, regardless of, and sometimes apparently in ignorance of, those of his predecessors, as no care was taken as to the preservation of the early Orders, and there was no official or complete collection of them published. The General Orders, however, as collected by Mr. Sanders, and those since published, are very numerous, and extend over a period of nearly 500 years, commencing with the reign of King Richard II. The difficulty of dealing with such a mass of matter, and of reducing it to a shape conformable to modern practice, may perhaps be guessed at, if not properly estimated, when we consider that not only had many of the old Orders been expressly repealed, but others had only been virtually repealed or superseded—some by statutes, others by subsequent Orders, others by a train of decisions, others by disuse or contrary usage; while in some instances an Order may be found to have been from time to time silently and partially abrogated, leaving some small portion of it still subsisting.

From the first report of the consolidators, Mr. Josiah W. Smith and Mr. H. Cadman Jones, to Lord Chelmsford when Lord Chancellor, it appears that their instructions from his Lordship were, "to consolidate all the Orders contained in the collection of Orders by G. W. Sanders, Esq., published by Maxwell & Son in the year 1845, which relate to general practice, and the Orders of the Court subsequent thereto relating to general practice; so that all such Orders as have become superseded, or have become obsolete as Orders, though they may have been the foundation of existing practice, and all such Orders as are expressly or virtually abrogated by other Orders, or by statutes, or by decisions which appear to have established a practice more expedient than that which

\* Reports of the first two of Mr. Peachey's Lectures on Settlements will be found in our second volume, New Series, part 2, pp. 477, 503, 516.—Ed.

the Orders repugnant to them enjoin, be omitted; and so that the remainder, except where their style is very antiquated, be not further altered in language than shall be deemed necessary for the purpose of consolidating the same, and of adapting them to the present practice, so as to form a harmonious and well-arranged collection, and for the purpose of determining the most expedient practice where there is a conflict of authority on the words of an Order."

These instructions have been admirably followed by the consolidators, who deserve the highest credit for the zeal, industry, and accuracy which they have brought to bear upon their important task.

The value of the work has also been enhanced by its having been perused by the officers of the court and by the judges; and the present Lord Chancellor (Lord Campbell) has shewn a most laudable desire that the work commenced and (subject to the approval of the judges) carried out by Lord Chelmsford should be brought to a happy conclusion.

The consolidators have not contented themselves with a consolidation of the Orders, for they have accompanied them with all means and appliances whereby the practitioner at once, and without the slightest trouble, may find out whatever point of procedure he may be in search of.

First, then, they give us a table of the Consolidated Orders; secondly, a table of the Consolidated Orders, with the marginal notes to their constituent rules; thirdly, a table of schedules to the Consolidated Orders; fourthly, a table of the subjoined regulations, with the marginal notes to their constituent rules, and the schedules thereto; fifthly, a chronological list of abrogated Orders incorporated in the Consolidated General Orders; sixthly, a chronological list of abrogated Orders incorporated in the subjoined regulations. These are followed by the Consolidated Orders, the schedules, the regulations as to special examiners' fees and charges, solicitors' fees and charges, court fees and charges for copies, an appendix of certain Orders excepted from abrogation; and last, though not of the least importance, an elaborate index of forty-six pages.

The new arrangement of the Orders leaves nothing to be wished for: it is clear, convenient, and admirably adapted for the purposes of practice. Although the language of the old Orders has been adhered to as far as possible, it has been altered whenever it was found necessary for the purpose of adapting them to the present practice, and also for the purpose of removing those doubts and difficulties which so frequently arose under the old Orders.

It will be seen that *claims* are abolished, upon the ground, that although they were very useful at the time they were introduced, yet, in consequence of the change of practice in other respects, (such as the dispensing with answers in so many cases, and the proceeding by way of motion for a decree), it is no longer necessary or desirable to resort to the proceeding by claim.

Some of the rules in the Consolidated Orders *introduce a new practice*, and to them the attention of the Profession should be *at once directed*. They will be easily found; for to most, if not to all, of them, an asterisk is prefixed.

The greatest credit is due to Lord Chelmsford for originating, and to the present Lord Chancellor for so zealously furthering, so useful an undertaking.

The thanks of the Profession are, we think, specially due to the consolidators, Mr. Josiah W. Smith and Mr. H. Cadman Jones, who, by separating those Orders which were subsisting from a mass of others which had become defunct, have contrived to bring order out of confusion, and harmony out of discord, and have conferred both upon practitioners and suitors a great and unmixed benefit.

*The Law relating to the Registration of Births, Deaths, and Marriages, the Duties of the Registration Officers, and the Marriage of Dissenters in England; with Notes and Cases.* By W. C. GLEN, Barrister-at-Law, and of the Poor-law Board. [Knight & Co., 1860.]

THE title of this little book sufficiently explains its scope and object. A collection of statutes upon a subject of so much practical importance cannot fail to be useful; they are published in a convenient and portable form, with references to decisions upon their enactments, and with a very full index.

*Two Lectures on the Jurisdiction and Practice of the High Court of Admiralty of England, delivered before the Incorporated Law Society on the 14th and 21st December, 1859.* By JOHN MORRIS, Esq., a Member of the Society. [Stevens & Norton.]

WE have already shewn our appreciation of these excellent Lectures by publishing them in our columns shortly after they had been delivered, and we now with pleasure revert to them in their new and convenient form of a pamphlet, with reference to authorities which were not cited during their oral delivery. Among the reasons given in the preface for the publication of the Lectures is a desire on the part of the author that his suggestions for the extension of the Admiralty jurisdiction, to include all maritime matters, should receive the consideration of persons interested in shipping, and a hope that he may stimulate other solicitors to give the Profession, and especially the younger branches of it, the results and benefits of their experience. We are surprised to learn that this is the first occasion upon which lectures have been delivered before the Law Institution by any of their own members; but an example so well and successfully given will surely be followed by gentlemen to whom is confided the education of one branch of the legal Profession, and who are fully competent to impart sound advice and instruction. We should not omit to mention, that these Lectures were delivered by Mr. Morris gratuitously.

#### LIBERTY OF THE PRESS IN FRANCE— RIGHT OF REPUBLICATION AFTER AVER- TISSEMENT.

CERTAIN points on the right of petition to the Senate have been raised by M. d'Haussonville, and submitted for the opinion of the most eminent jurists of the French Bar. The object is to obtain the abolition of the decree of February, 1852, which imposes so great a restraint on the liberty of the press. An elaborate report on the four questions suggested by M. d'Haussonville has been drawn up. It is signed by M. Plouque, bâtonnier, and MM. Berryer, Marie, Dufaure, Lionville, and Bethmont, who have all filled in turn the office of bâtonnier to the order of advocates.

The first question is—"Has a French citizen, enjoying his political rights, the right to demand of the Senate, by way of petition, changes which he may judge useful in the existing laws; and might not great freedom be accorded to the exercise of this right?"

The answer to this question is decidedly affirmative. The jurists who sign the paper sum up their reasons with this paragraph:—

"Rationally, legally, sincerely interpreted, the right of petition, the right of sovereignty, in its origin, in its objects, and in its results, has not, and cannot have, any other limit than the limits we have given it. It may even be applied to every existing law which menaces, endangers, or violates any one of the great interests which the Constitution confirms, recognises, and guarantees, as it may raise and utilise the ideas of reform

which the occasion points out and advises. Such is the right of petition, or the right does not exist at all."

The second point is this—"When addressing the Senate, has every Frenchman, in the enjoyment of his political rights, the right to explain the motives for the reform which he demands?"

The answer to this is also in the affirmative.

Third question—"Can the decree of the 17th February, 1852, in all its provisions, or in some of them, be denounced to the Senate, by petition, as contrary to the principles admitted, maintained, and guaranteed by the Constitution of 1852?"

The report says—

"As a matter of form, the decree of the 17th February, 1852, although it has seven years' existence, may be submitted, we believe, to the examination and opinion of the Senate. But is there any foundation for submitting it to such an appreciation? This is more a question of politics than of law; we must consequently approach it with reserve. To discuss the decree of 1852 in its spirit will be essentially the work of the petitioner, and we believe he has a right to do so; and we might stop there. Nevertheless, in order not to leave the special question which is proposed to us without an answer, as to the bearing of this decree, we think it our duty to present some brief observations—first, as to its relations with the Constitution; and next, and more particularly, upon one of its principal provisions. Is it in harmony with the Constitution of 1852? In order that such harmony should exist, it would be necessary that it should not be in opposition to 'those great principles of 1789 which are the basis of the public right of the French people.' (Art. 1). The liberty of the press is one of the most important of these principles. Now, is it respected by the decree of 1852? We have, it is true, read this phrase in a proclamation of 1852—"Our actual society is nothing else than France regenerated by the revolution of 1789, and organised by the Emperor Napoleon I." But the object of that proclamation apparently was not to weaken the solemn declaration we have already quoted, and which covers with its power the entire Constitution. The sovereignty of the people dictated that declaration—the sovereignty of the people maintains it. In a second point of view, the decree of 1852 appears to us to deserve to be criticised, or rather denounced, to use the very expression of the Constitution of 1852. According to the terms of this decree, a newspaper may be suppressed after certain convictions pronounced, and even administratively without a conviction. Now, a newspaper is not only the organ of an opinion, it is a commercial property of considerable consequence, and of which the capital, divided into shares, belongs to proprietors who do not occupy themselves with the ideas expressed in it. The suppression of a newspaper is consequently, in fact, the suppression of a material property: it is a species of confiscation. It is, moreover, a maxim of law in France, that property is sacred, and that nothing but a judicial sentence can interfere with it—all other authority is powerless to touch it. The Constitution of 1852 has not, we believe, authorised such a prosecution. We conclude by referring to a provision of the Constitution, which applies as well (as we have demonstrated) to laws enacted as those to be enacted:—"The Senate opposes the promulgation of laws which infringe the inviolability of property."

The fourth question—viz. "Can an article which, when published in a newspaper or in a review, has been the object of an avertissement, be republished in a pamphlet?"—is also answered affirmatively; as well as the other point, whether an agreement, entered into for the purpose of publication, possesses legal force, and can its execution be enforced by law?

An elaborate argument demonstrates that the decree of 1852 is applicable, and was meant to be applicable,

only to newspapers and periodicals, and not to pamphlets. The pamphlet, properly so called, is still under the régime of the general law.

The preventive avertissement is quite exceptional; the general law takes no cognisance of it; it is merely a simple administrative measure, and not a penalty—a warning, but not a punishment in due course of law. The report concludes—

"The production, under the application of an avertissement, remains harmless, as it was before the avertissement. In the pages of a periodical it may again be averti, if it be again produced; but in any other form, it can only be proceeded against by the ordinary law.

"So much being said, we believe we have demonstrated the right of reproduction; and if the right of reproduction be beyond the reach of attack, it is clear that the engagements formed for that reproduction have a lawful object, and that the law may be applied to enforce their execution."

## NEW CAUSES—HILARY TERM, 1860.

### COMMON PLEAS.

<p> <i>Land.</i>—Morgan v. Taylor  " Axley v. Holden  " Seegar v. Duthie  " Suse v. Pompe  " Oakeley v. Ooddeen </p>	<p> <i>Liverp.</i>—Ward v. Napier.    SUSPENDED.    <i>Midd.</i>—Warland v. Smith  <i>Land.</i>—Walton v. Lavater. </p>
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*John Merriman*, South Shields, Durham, draper, Feb. 9 at 12, Newcastle-upon-Tyne, fin. div.

### CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*Charles William Fitzmaurice Liddle*, Bull-inn-court, Strand, Middlesex, licensed victualler, Feb. 9 at 1, London.—*William Smith*, Tabernacle-row, Finsbury, Middlesex, carpenter, Feb. 7 at 2, London.—*Samuel Welldon*, Manes, Cambridgeshire, machinist, Feb. 7 at 1, London.—*John Barlow*, Cobridge, Burslem, Staffordshire, earthenware dealer, Feb. 20 at 11, Birmingham.—*Samuel Johns Back*, Kingston-upon-Hull, tailor, Feb. 8 at 12, Kingston-upon-Hull.—*Matthew Dickens*, *William Dickens*, and *Samuel Dickens*, Liverpool, woollendrapers, Feb. 7 at 11, Liverpool.—*John Hooke*, Bersham-mills, near Wrexham, Denbighshire, paper manufacturer, Feb. 7 at 12, Liverpool.

*To be granted, unless an Appeal be duly entered.*

*James Broadhurst*, Albert-street, Kennington, and Carile-street, Lambeth, Surrey, builder.—*James Crow*, New Park-road, Brixton, Surrey, upholsterer.—*John Clarke*, King's Lynn, Norfolk, victualler.—*James Windsor Slogg*, Strood, near Rochester, Kent, builder.—*James John Wade*, Braintree, Essex, grocer.—*Joseph Charles Morgan*, Ann's-terrace, Cambridge-heath, Hackney, Middlesex, builder.—*Charles Seaman*, Milk-street, Cheap-side, City, silk manufacturer.—*Jeremiah Cranfield*, Colchester, Essex, cooper.—*Louis Lesser* and *Jacob Lesser*, Tipton, Staffordshire, shoe manufacturers.—*Charles Wright*, Birmingham, innkeeper.

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**JOHN STANTON MISKIN**, Rochester, Kent, butcher, Jan. 31 at 2, and Feb. 28 at 1, London: Off. Ass. Lee; Sols. Bassett, Rochester; Harrison & Lewis, 6, Old Jewry, London.—Pet. f. Jan. 16.

**WILLIAM GRINDY** the younger, Longnor Edge, near Longnor, Staffordshire, cattle salesman, Feb. 3 and 24 at 11, Birmingham: Off. Ass. Kinnear; Sols. Tomlinson, Ashbourne; Hodgson & Allen, Birmingham.—Pet. d. Jan. 17.

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## MEETINGS.

**Giuseppe Liugi Schembri**, Leadenhall-street, City, merchant, Feb. 10 at 12, London, pr. d.—**Alfred Moss**, Cambridge, grocer, Feb. 2 at 2, London, ch. ass.—**James Shaw** and **David Shaw**, John-street, Cambridge-heath, Middlesex, boiler makers, Jan. 30 at 11, London, aud. ac.—**Daniel F. Oakley**, Paternoster-row, City, bookseller, Feb. 2 at 11, London, aud. ac.—**Wm. Benning**, Fleet-street, City, law bookseller, Feb. 2 at half-past 11, London, aud. ac.; Feb. 10 at half-past 1, div.—**James Barnard** the younger, Aldershot, Southampton, licensed victualler, Feb. 2 at 11, London, aud. ac.—**Charles Carter**, Terrace, Tower-hill, City, coal merchant, Feb. 2 at half-past 11, London, aud. ac.—**Thomas Banks**, Chorley, Lancashire, ironmonger, Feb. 3 at 12, Manchester, aud. ac.; Feb. 10 at 12, div.—**Joseph Porter**, Salford, Lancashire, screw-bolt manufacturer, Jan. 30 at 12, Manchester, aud. ac.—**John Hooke**, Bersham Mills, near Wrexham, Denbighshire, paper manufacturer, Jan. 31 at 11, Liverpool, aud. ac.—**Thomas Millington Wigley**, Birmingham, builder, Feb. 3 at 11, Birmingham, aud. ac.—**Bassett Edward Leigh**, Birmingham, merchant, Feb. 9 at 11, Birmingham, aud. ac.—**Thomas Benjamin Blochridge**, Birmingham, tobaccoist, Feb. 9 at 11, Birmingham, aud. ac.; Feb. 16 at 11, div.—**James Chatterton** and **Moses Chatterton**, Horncastle, Lincolnshire, millers, Feb. 15 at 12, Kingston-upon-Hull, aud. ac.—**George Atkinson**, Lincoln, commission agent, Feb. 15 at 12, Kingston-upon-Hull, aud. ac. and div.—**Michael Salmon Seeley**, Lincoln, confectioner, Feb. 15 at 12, Kingston-upon-Hull, aud. ac. and div.—**Edward Clo-**

**ment Davies**, Gainsborough, Lincolnshire, chemist, Feb. 15 at 12, Kingston-upon-Hull, aud. ac. and div.—**Robt. Brown**, Great Driffield, Yorkshire, brewer, Feb. 15 at 12, Kingston-upon-Hull, aud. ac. and div.—**Imas White**, Biggleswade, Bedfordshire, tinsmenger, Feb. 13 at half-past 11, London, div.—**James Bolitho Goggin** and **Richard Veale**, London-wall, City, mantle manufacturers, Feb. 13 at 12, London, div. sep. est. of **James Bolitho Goggin**.—**Henry Remington**, Railway-place, Fenchurch-street, City, gasfitter, Feb. 16 at 12, London, div.—**John Chalmers**, Cirencester, Gloucestershire, tea dealer, Feb. 23 at 11, Bristol, div.—**James Henry Norris**, Birmingham, paper dealer, Feb. 10 at 11, Birmingham, div.—**John Owen** and **William Henry Boon**, Birmingham, silversmiths, Feb. 10 at 11, Birmingham, div.—**John Cowen**, Newcastle-under-Lyme, Staffordshire, travelling draper, Feb. 17 at 11, Birmingham, div.—**Wm. Copeland**, Topcliffe, Yorkshire, corn miller, Feb. 10 at 11, Leeds, div.—**John Jackson**, Fleet Mills, near Oulton, Yorkshire, corn miller, Feb. 10 at 11, Leeds, div.—**Thomas Harper**, Sheffield, Yorkshire, cooper, Feb. 11 at 12, Sheffield, div.—**J. Thompson**, Sheffield, Yorkshire, grocer, Feb. 11 at 12, Sheffield, div.—**Anthony Heath**, Sheffield, Yorkshire, provision dealer, Feb. 11 at 12, Sheffield, div.

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**John Salmond**, Kirkcaldy, horse dealer.—**George Moore**, Glasgow, pawnbroker.—**Swinton & Fraser**, Dundee, builders.—**William Burgess**, Edinburgh.

## TUESDAY, Jan. 24.

## BANKRUPTS.

**THOMAS SIMMONS**, Hurst, Berkshire, cattle salesman, Feb. 3 and March 1 at 1, London: Off. Ass. Bell; Sols. Henderson, Reading, Berkshire; Lovell, Gray's-inn.—Pet. f. Jan. 20.

**JAMES WILLIAM SUMNER**, Reigate, Surrey, builder, Feb. 8 at 2, and March 7 at 12, London: Off. Ass. Stansfeld; Sol. Kent, 10, Mitre-court-chambers, Temple.—Pet. f. Jan. 21.

**EDWIN HYETT**, Worcester, baker, Feb. 10 and 24 at 11, Birmingham: Off. Ass. Whitmore; Sols. E. & H. Wright, Birmingham; Rea, Worcester.—Pet. d. Jan. 19.

**THOMAS MARSHALL**, Plymouth, Devonshire, builder, Feb. 7 and 27 at 12, Plymouth: Off. Ass. Hirtzel; Sols. Rooker & Co., Plymouth.—Pet. f. Jan. 21.

**GRACE KEENOR** and **SOPHIA BAILLIE**, Exeter, milliners, (carrying on business under the style or firm of **Keenor & Baillie**), Feb. 6 and 29 at 12, Exeter: Off. Ass. Hirtzel; Sol. Fryer, Exeter.—Pet. f. Jan. 23.

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## THE JURIST.

LONDON, JANUARY 28, 1860.

## SUGGESTIONS FOR IMPROVEMENTS IN THE ADMINISTRATION OF THE PATENT LAW.

THE following article has been written by Mr. Grove, Q. C., who has kindly allowed us to publish it in our pages. We need scarcely add, that the knowledge and experience of the writer give considerable weight to any observations by him upon the subject of Patent Law:—

That those who, by meritorious inventions, have advanced the manufactures or commerce of a State should be rewarded, and that the State itself would be benefited by the encouragement given, by means of such rewards, to the progress of useful inventions, appears to many an undeniable proposition. This proposition is, however, far from being necessarily true, and the practical difficulties of apportioning the rewards so as duly to compensate the individual, and properly to promote the interests of the State, are far greater than is generally supposed.

By some it is thought that premiums or honours should be directly conferred by the State upon inventors; but the impossibility of fairly estimating contemporaneous merit—the tendency of such rewards to become jobs—the advantage which the man of the world, who has devoted his mind to the study of man-

kind, has in promoting his self-aggrandisement, as compared with the man of the closet, who has devoted himself to scientific study, offer insuperable barriers to any system of national rewards. Experience has led this and other civilised countries to make the sale of the product of invention constitute the reward of the inventor; and this would seem, à priori, a fair mode of adjustment, for by this means the more useful an invention is to the public the greater is the reward to the inventor. To effect this, either the inventor must keep his invention secret, so as to retain in his own hands a monopoly, or the State must grant and enforce for him a monopoly of his invention. The former is obviously, in the majority of cases, impracticable, as the greater number of inventions are disclosed by the product of invention; the latter has been, therefore, the plan adopted, and, in the earlier period of the history of invention, has undoubtedly met with much success.

In this country the patent law may be said to date from the time when the stat. 21 Jac. 1 declared illegal all other monopolies, which, from their abuse at the hands of the Crown, had become an intolerable grievance, and confined the power of the Crown to the grant of monopoly to "the true and first inventor of any manner of new manufactures within this realm which others at the time shall not use."

It was soon found necessary for the interests of the public to guard from abuse even this restricted monopoly. The ultimate object of the grant being the advantage of the State rather than that of the inventor, it was necessary that when the period of monopoly had

expired, the public should be put in full possession of the means of carrying out the invention, or constructing the manufacture according to the principle of the invention. A patentee, by artfully concealing his mode of manufacture, or keeping trade secrets in his own hands at a time when men's minds were not so quick at detecting them as they now would be, might protract his monopoly beyond the period which was assigned as sufficient fairly to remunerate him, and so long as to keep the public from the enjoyment of the invention, which latter object was the consideration moving to the grant. To obviate this, it was made a condition by the Crown that the patentee should deposit or inrol, in a place attainable by the public, a specification or detailed account of the mode of practising his invention, so that his secret should not die with him, and that at the period of the expiration of the monopoly the public should be in full possession of the invention. But a further provision was necessary—the grant of monopoly prohibiting others than the patentee from practising his invention during the prescribed period, it was necessary that the public should know what they were prohibited from using, as otherwise they might infringe the law from ignorance.

In order to provide for these two necessary conditions, it has been the invariable practice ever since the reign of Queen Anne to insert in the letters-patent a condition, that the patentee shall, within a certain fixed time after the grant, inrol, or, latterly, file, in Chancery an instrument in writing, commonly called "a specification," wherein he shall "particularly ascertain and describe the nature of his invention, and in what manner the same is to be performed," the non-compliance with which condition renders the grant of monopoly void.

In many inventions, the description of the process or manufacture fairly shews to the public the nature of the invention, and therefore complies with both requisites of the letters-patent; in others, the description of the process or manufacture, mixing up what is new with what is old—what is part of the invention of the patentee with what has been previously known—does not of itself shew to the public what they are prohibited from using. In such cases it is necessary that the patentee should state in what his invention consists—i. e. what portion of the new manufacture he asserts, and is supposed to have represented to the Crown, to be of his invention. This may be done by a statement that his invention consists of such and such elements, or, as is more commonly done, by claiming, at the end of the specification, such points as he considers new. Thus, in a patent for an improvement, whereby the friction of the axles of wheels may be prevented by the use of rollers round the axis, he would describe a complete axle constructed so as to carry out his invention. But, as much of this would be common to all axles, he would say, "My invention consists, or I claim the application, of rollers to axles or journals of wheels, so as to lessen the friction occasioned by the revolution of the wheel round its axis."

It will be obvious that many nice questions may and must occur in properly specifying an invention; and, on the one hand, a patentee may undeservedly suffer by an unintentional ambiguity or imperfection in his specification, whereby the Courts are led to the opinion

that the patent is not properly specified; and, on the other hand, an artful but unscrupulous patentee may so specify as to appear to give candid and full information, but may in reality mislead the public, and thus lead honest men into unintentional infringement; or, by the terms of his claim, include more than he has really invented, and thus gain a monopoly beyond that intended to be granted to him. Hence arises a great source of litigation, which the history of patent cases lays before us, where questions of great intricacy have arisen. Nor, as long as words can be used to conceal as well as to manifest ideas, and as long as language is imperfect, though used with the best intentions, and by the best educated men, can these difficulties be got rid of. Partly to remedy them, the patentee is, by a statute passed in the reign of William IV, enabled, with the permission of the Attorney or Solicitor General, to disclaim or alter any part of the title or specification of his patent, so that he does not thereby extend the exclusive right.

It is foreign to the object of this paper to enter into the consideration of these questions; they will be found well expounded in the able treatises on the patent law written by lawyers and others conversant with the subject. My object is, after a slight sketch of the present state of the patent law, to indicate what I consider fundamental objections to its efficient working in the present state of civilisation, and then to propose certain measures for remedying these defects.

The grant of letters-patent is an act of grace on the part of the Crown; it is *ex mero motu*; and the law does not recognise any right in the subject to a monopoly. This is a matter important for consideration, as will be found in a subsequent part of this paper. The discretion of the Crown is practically exercised by the Attorney or Solicitor General, to whom the petition of the patentee is referred, and one of whom reports upon it. If the report be in favour of granting it, the patent is generally granted; it may be opposed at subsequent stages of the proceedings; but these, and the formal proceedings, it is not necessary to enter upon here.

The Attorney or Solicitor General exercises a judicial discretion in recommending, or not recommending, the grant of patent: this, however, in course of time, has come to be rarely used, except in case of rival inventors, where the claims of two or more claimants are investigated by separate examination of each, and the report is in favour of the claimant adjudged to have the priority.

The patent was usually granted for fourteen years, but by a late statute the patentee may, at a small expense, take his patent voidable after three years, with an option of keeping it alive at the expiration of three and seven years, on paying further fees, up to the period of fourteen years. At the expiration of this term the monopoly ends, and the use of the invention is open to the public, unless, upon application shewing sufficient grounds of merit in the invention, or want of sufficient remuneration to the patentee or his representatives, the Judicial Committee of the Privy Council shall recommend to the Crown to extend the period, which they may do for any period not exceeding a second fourteen years, and upon such recommendation a prolongation is granted as of course.

Such is an outline of the state of patent law in this country, the interests involved in which are yearly acquiring increased magnitude, and the litigation occasioned by conflicting rights is yearly occupying a greater portion of the time of our courts of justice.

I now proceed to consider what appear to me to be the defects in the present working of the patent law—defects such that many able men have thought that the country would be benefited by an entire abolition of the patent law; in support of which opinion there is much more to be said than is generally supposed.

It will probably not be disputed that the main object of a patent law is not to benefit the individual patentee so much as to benefit the State; as Sir E. Coke says, "The reason why such a privilege is good in law is, because the inventor bringeth to the commonwealth a new manufacture by his invention, costs, and charges; and therefore it is reason that he should have a privilege for his reward, and the encouragement of others in the like, for a convenient time."

Patent is not given to a discoverer of an abstract scientific principle, but only to him who by his invention gives a new manufacture to the public. Suppose a patent monopoly to be beneficial to the individual patentee, but injurious to the community at large, yielding the former a great reward, but closing the door to improvements in the progress of invention, which would otherwise take place, it is obvious that in such a case it would not be the duty of the Government to grant such patent. In other words, unless the reward to the inventor promote, in the long run, valuable inventions—if the inventive faculty would be even equally exercised without as with such rewards—it would not be the policy or right of the State to grant rewards, or monopoly, which is a form of reward; in promoting the interest of one invention it would oppose the interests of others, and of the larger mass, who profit by invention. Patent law should, therefore, be such, and so administered, as to encourage by reward inventions which the public would not otherwise obtain, or, by its general stimulus to invention, to obtain for the public a greater aggregate amount of invention.

Starting from this principle, which I feel sure will appear incontrovertible to those who have at all considered the subject, let us view the present state of the patent law in its operation on the present state of society.

In an early period, when the patent law first grew into existence, inventive genius was rare; those who devoted themselves to a life of thought and experiment for practical purposes were few and far between; they had time, without the competitive interference of others, to develop and perfect their inventions. The records of invention were few, and it was comparatively easy to ascertain if a given invention were or were not new. Very few cases of contested patents occur in the older law books. The public obtained a distinct and clear benefit from the temporary monopoly granted to the patentee, for few, if any, but he could properly instruct others in the practice of his invention; and if he had not invented and developed it, a period far longer than that limited by the patent would in all probability have elapsed before any one else invented the same thing, or before the progress of events forced it on the public. Now the case is widely different; inventors are so numerous, the progress of physical science has made such vast strides, that it is, at all events with regard to a great number of inventions, a question only of weeks or months when an invention is to be made.

The power-loom, the jacquard, the steam-engine, were great inventions, requiring deep thought and persevering experiment; but a defect in the working of a loom, in the valve of a steam-engine, &c., is now sure to be remedied by the very fact of its existence; and yet the law gives the same monopoly to the man who discovers the most minute improvement of detail as to the man who discovers a great application of a great principle; and provided the former invention be such that it so stands in the way as to be necessary for the trade to adopt it, it stops all further progress upon the subject. If a ball valve is better than a flap valve, simple as is the invention, small as is the application of mind and the labour of experiment to produce and perfect it, still those engaged in the trade must avail themselves of it, or be passed by others, and must pay the patentee his license demands for the full term of the patent.

There is, again, no half protection by patent; the moment an invention is published, the moment a result is known to be accomplished, a hundred ways of accomplishing the same result will be discovered by the mass of active minds around; if the patentee be protected against all these modes, he will have a protection far more than equivalent to his deserts, and moreover his patent will be the means of arresting inventions which, in all human probability, would have taken place long before the term of the expiration of his patent. If, on the other hand, you do not give him this protection, you in many cases give him nothing, for if the same result can be effected by other means, no one will pay him for using his patent. The patent law, as laid down by learned judges, only protects from the effecting of the same result by substantially the same means; but juries are prone to find the means substantially the same when the result effected is the same, and when the same result had not been effected before the plaintiff patentee effected it; and, indeed, without this occasional stretch of the law, small would be the benefit of a patent. When invention was rare, imitation could only be effected by a few known modes of ringing the changes, and these were called mechanical equivalents; but now, given the result as a fact accomplished, a thousand and one other modes are immediately discovered of accomplishing it. How is this dilemma to be got over? How is a patentee to have a protection equivalent to his merit, and yet not so large as not to arrest inventions which are not based on his, and which would have taken place had he never existed? Strictly to fulfil these requisites is, perhaps, impossible, considering the necessary infirmity of human institutions; a possible mode of approximation to it will be suggested in the sequel.

I now proceed to consider some other matters which appear to me to be defects in the working of the patent law.

The subject-matter for which letters-patent may lawfully be granted is any manner of new manufacture; and if there be the slightest novelty, the slightest addition to or subtraction from an existing manufacture, by which the result can be said to be new, that is sufficient to support the patent. The decision of the question, whether a claim is a proper subject for a patent, like all others arising as to the validity of a patent, is now left by the Crown and its advisers to the trial by court and jury, at the suit of the patentee, when the patent is alleged to be infringed; or by writ of *scire facias*, to repeal the letters-patent, when it is sought to be put an end to by others interested in its abolition. The consequence has been, that there is only, I believe, one case—*Brook v. Aston*—where a patent has been upset on the ground of the alleged invention not being the subject of a patent, so slight is the degree of invention or change required to support the patent on this head of objection. Now, it seems to me that the Crown has abdicated its functions in this respect, and that the original object of the grant of monopoly, and the proper function of the Crown as protector of the interests of the public, should be judicial, not ministerial, and that patents should not be granted indiscriminately, and left to a conflict of wits of barristers and scientific witnesses at a trial before a judge and jury, having but a limited knowledge of the history and value of the particular invention. I venture to think that the Crown, as trustee for the public, should, by its advisers constituted in that behalf, inquire and adjudicate upon the matter before granting a monopoly, and that such was the original common law of this realm declared, not enacted, by the statute of James. How this is now to be effected I will also endeavour to suggest in the sequel.

Another point on which I am not aware that a patent has ever been avoided is its utility. It is required by law that an invention be useful to the community to

render it appropriate for patent; but as it has been ruled that any degree of utility is sufficient, a case can hardly be conceived in which evidence may not be adduced to satisfy a jury that there is some utility in a patent. So that here again the word has practically no meaning, and pleaders have almost given up objecting to a patent on the score of inutility; yet this was not the real object of patent law; it was to reward, not trivial inventions, which might stop the way to greater improvements, but substantial boons to the public—not changes such as any experimentalist makes a score a day in his laboratory, but substantial practical discoveries, developed into an available form.

Another great change has taken place in the progress of events with respect to imported inventions. The statute of James only gives patent to the true and first inventor; but in an early case—*Edgebury v. Stephens*—the judges, straining the law to meet what they considered substantial justice, decided that an importer must be considered an inventor within the meaning of the statutes; for whether learned by travel or by study they said was the same thing.

In that day, when trade mysteries were kept secret, when travellers incurred risk, and required skill to get at foreign inventions, there might have been some reason for this application of the law. But how different the case at present; an invention in France is sure to reach this country by the next post, or to appear in full in the next number of *The Athenæum*, *Literary Gazette*, or *Mechanics' Magazine*; and the importer, who posts over from the foreign inventor to anticipate these publications and to take out a patent, injures instead of benefits the public—stops instead of promotes the progress of discovery—has no merit of his own, but the demerit of monopolising an invention which he has not made; and yet he now, as then, gets patent for fourteen years. The postman who brings a letter from a foreign patentee as much deserves patent as the correspondent to whom it is directed; and yet, in compliance with the decision in *Edgebury v. Stephens*, it is to him, and not to the foreign inventor, that patent is given—practically, an entire abrogation both of the letter and spirit of the English common and statute law.

It may be said that in the greater number of cases the English correspondent is a trustee for the foreign inventor, so that the real inventor gets the benefit of the monopoly. If it be good public policy to grant letters-patent to foreigners residing abroad, it would be far better to alter the law, and not to effect this by an evasion of the existing law, which does not sanction such grant. I incline, however, to think the law, in not granting letters-patent to foreigners residing abroad, is a law founded on sound policy; but this is too wide a question to enter upon here. There are few cases now where the importer of an invention has any substantially meritorious claims to reward; where these exist they might be met by the plan I shall presently propose.

Great defects exist in the trial of patent cases, some of which are incident to other forms of litigation, but some are peculiar to patent cases. In the courts of justice of this country the litigant, who has by his counsel the first and last word, has an undoubted advantage over his opponent. This is, to some degree, inevitable: it has been partly remedied by a recent change in the form of procedure, which enables the party whose evidence is the last concluded to sum up; but in patent cases the advantage is greater than in any other class of cases.

A plaintiff patentee has all at stake—an alleged infringer comparatively little: the former, therefore, is frequently provided with an array of counsel and scientific witnesses, which gives him an immense advantage when subjects are discussed unknown to the majority of judges and jurymen. The case is shaped

adroitly, and the minds of the jury are generally moulded into the groove laid down by the advocate for the plaintiff, without being at all conscious of it. The cases generally last so long, that, in spite of every desire to do justice, weariness prevents proper attention to the defendant's case, all that is interesting in the scientific questions having been already exhausted; and ultimately the counsel for the plaintiff has a general reply.

Learned judges, whose minds are not influenced by speeches or matters of prejudice, do not generally attribute that weight to an opening and reply which members of the Bar do; but its influence in patent cases may be deduced from the fact, that in proceedings by *scire facias* to repeal patents the order has been changed; and where, previous to such change, which was made A.D. 1852, the prosecutor, or those who attacked the patent, began—since that time the defendant, or patentee whose patent is attacked, begins. The consequence has been, that whereas, previously to the change of the law, there was, as far as I am aware, only one case in which a patent escaped destruction on trial by *scire facias*, there is only one case, since the change, where a *scire facias* has been successful. On the other hand, as against the plaintiff, it not unfrequently happens that a patent for a valuable invention is upset by an unforeseen defect in the specification. I can pretend only to suggest an amelioration of these defects, but not a thoroughly satisfactory solution of the question.

There appears to me no greater mistake than that of supposing that easy and unlimited grant of patent is a benefit to inventors, even assuming that, and not benefit to the community, to be the object of the patent law. Many seem to regard patent as a right claimable by any one who assumes to be an inventor, and think it a species of free trade to let any one have patent who asks for it, forgetting that there is no such right, and that a monopoly is, *ex vi termini*, and in fact, the most antagonistic to free trade. But does the gratuitous or easy grant of patent to all who ask it benefit inventors? I believe, that if the private history of schemers could be gone into, the number of those ruined by the delusive *ignis fatuus* of a patent would be found far greater than is at all supposed. Men, with slender study of the history of invention, honestly discover, or fancy they discover, a new application, and, once embarked on a patent speculation, seldom abandon an idea with which their vanity has become deeply identified, until loss of time and money has brought them to their senses, happy, if not too late, to recover a position from which a delusion, more honourable, but not less exciting, than that of the gambler, has led them astray. The records of the number of patents taken out, compared with those which have turned out profitable, will soon satisfy those who wish to examine the subject in detail.

In suggesting a plan which seems to me capable of remedying some, if not all, the above defects, I can only lay claim to partial originality. My idea is, to have a Court for advising the Crown on the grant of letters-patent, for fixing the term for which they should be granted, for trying patent causes, and for examining and reporting on applications for prolonging the monopoly. The idea of a special Court for trying patent causes is not new; it has been frequently discussed, and viewed with favour by many members of the Bar; it has been alluded to by judges from the Bench, and has been not unfavourably regarded by patent agents, attorneys, and others conversant with patent cases. I would, however, give such a Court jurisdiction beyond that of merely trying patent causes; I would transfer to it the functions exercised at present by the Attorney and Solicitor General, with enlarged powers, or rather with the intention that the Court should exercise the powers now vested in the law officers of the Crown, in

a more judicial and less ministerial manner. To a Court consisting of one, two, or three judges, as the amount of business may require, I would suggest the referring all applications for letters-patent. These should be advertised, and from the time of advertisement a provisional protection should be granted—i. e. if ultimately letters-patent should be awarded, the patentee should not be prejudiced by the publication necessarily involved in the advertisement of his claims. The claims should be heard upon petition in open court, where any opponent should also be heard, and the merits of the invention thus discussed as far as they could be at such a stage.

The judgment of the Court should be final, in reference to the two questions, of invention being the subject of a patent, and as to its utility. The Court might also have power to reject, upon clear evidence negating the novelty of the invention; but if it recommended patent being granted, the question of novelty should then be open, and subject to be tried either by the Court or a jury, at the option of either of the parties; the Court to have power to grant injunction, inspection, and account. *Scire facias* prosecutions should be tried by the Court alone, without jury, but only when a previous verdict had been obtained, unreversed by new trial or motion against the patentee.

The Court might have power to settle specifications, as far as regarded defects upon the face of them, and powers of amendment might be given in certain cases; the term for which letters-patent should be granted to be purely discretionary with the Court, subject to renewal on application, and grounds shewn, up to the period for which patents, including the term of prolongation, may now be granted and extended.

The Court would thus have the powers now vested in the law officers of the Crown, in the judges trying patent cases, and hearing arguments on them in banc, and in the Judicial Committee of the Privy Council. It is needless to observe that such a Court would have ample business to occupy its time. The rapid increase of patent causes, and the necessarily long time they occupy, is notorious, and has frequently formed a subject of complaint from the Bench as unduly delaying other business. If the work were not sufficient fully to occupy such a Court, it might be given jurisdiction in copyright and registration of designs; and even certain actions of nuisance might be intrusted to it. The present Courts of common law and equity might also have power to refer to this Court questions of a scientific character, either for ultimate decision or for trying issues.

The judges of the new Court should, in my opinion, be all chosen from practising barristers of a certain standing; for nothing, in my humble judgment, qualifies a man for testing the truth in judicial investigations so well as practice at the bar. If, however, in this class of cases, it is thought desirable that the Court should have the benefit of scientific experience, one of the judges, or an assessor, might be a non-legal, scientific man. I make the suggestion, however, rather as one which has been advocated by others than as myself recommending it. Either the judge would commonly yield to the opinion of the assessor, or the assessor to the judge, or constant divisions of opinion would ensue.

It would be difficult to choose an assessor who was not interested, either by actual vocation, if this were not prohibited, or by previous association with certain views regarding applied science, which, however honourable and intentionally impartial he might be, would bias his mind\*. Nothing, I venture to think,

so well qualifies a man for judicial functions as practice at the bar. A man is trained by his practice as an advocate, and commonly as an arbitrator also, to discard all those points which are foreign to the questions on which he has to exercise his judgment; to disregard what are called topics of prejudice; not to commit himself to bad law for the sake of hard cases. He is disciplined by practice before acute and impartial minds; accustomed to have his failures detected and his judgment tested, he is able to estimate precedent at its proper value, as giving fixity and certainty to law, and preventing its being a wide labyrinth of opinion, and yet not to overvalue it; to detect those points of distinction where supposed precedent does not apply; he is accustomed to the construction of acts of Parliament; to put the proper limits to his own discretionary powers; to lose sight of self in the discharge of judicial functions. The large majority of those who have had opportunities of seeing or trying the difference between what is termed a lay arbitration and a legal one will need no argument to convince them of the superiority of the latter, "*cuique in sua arte credendum*;" and few, if any, professions require such training, moral as well as intellectual, as does that of an advocate or a judge.

Without an assessor a judge would always take care to inform himself, by reading, on any point of science important to his decision on which he felt himself in need of information; or he might have power, as the law officers now have by sect. 8 of stat. 15 & 16 Vict. c. 83, to call in occasional aid; and this would not commit him, or those whom he might call in, to any such diversity of opinion as would be greatly injurious in the case of a permanent assessor. He would get information, but no undue influence, and he would seek the former where his judgment tells him he could best find it, and only seek it when he required it, and when it was not disclosed, as it generally would be, in the discussion of the case before him.

Perhaps there is no case more instructive on the subject of the qualification for judicial functions afforded by the education of a practising barrister than that of the decisions of revising barristers. On no subject does a one-sided or partial feeling commonly entrap men more readily than that of politics, and yet comparatively young men, of a few years' standing at the Bar, have now for many years been appointed to decide judicially electoral qualifications; and I am not aware of a single instance where a revising barrister has been accused, or even reasonably suspected, of importing his political feelings into his judgment on questions which vitally affect political rights. It would be well that such cases as these—and many might be given—should be more known and appreciated, as some antidote to the clap-trap abuse that is frequently lavished on the Bar as a profession.

In advocating the transference of the duties now performed by the law officers of the Crown to a new tribunal, I know I am touching on delicate ground. Their present jurisdiction in respect to patents forms a very lucrative portion of their official emoluments; but, upon consideration, I cannot but think it desirable. It would transfer from overworked, though highly competent, men, duties which, by no individual default, have to a large extent become formal, where, it seems to me, they should be judicial. No law officer could, *proprio motu*, effect such a reform in their procedure as to exercise a discretion, which, though originally vested in him, has, by disuse, become obsolete; and if a declaratory act were passed directing such exercise of discretion, the Attorney and Solicitor General could not possibly find time properly to exercise it. It seems far better to vest it in a Court specially adapted to this purpose, and which would exercise the jurisdiction in public, giving the reasons for its decisions, thus calling

\* See some good observations on this point in Mr. Carmichael's work on the Law of Patents, 1852; though, as will be seen by the text, I do not agree in all the opinions there expressed.



the attention of all interested in the subject to the matters discussed, and subject to motions for rehearing and to appeal. Official salaries could be given to the law officers to compensate them for the loss they might sustain, and the time they would gain for the performance of their various and onerous duties would be a great advantage to them, the Government, and the public.

I will now point out the advantages which appear to me derivable from such a Court as I have above suggested, and which, I think, meet in a great degree the objections I have urged against the present working of the patent law.

In substance, no new powers are sought to be given; the broad principles of the common law remain as before; the Court is only the adviser of the Crown in the exercise of its constitutional right, though doubtless, practically, as now with reference to the law advisers, the Crown would act on the report of such a Court.

By an examination before the public in open court, guarded by the Bar and the Press, a proper scrutiny of the merit of an invention would be attained with comparatively small expense; and, on the one hand, many an imaginative theorist would be saved from ruin and despair; while, on the other, the public would be saved from an inundation of frivolous patents, which hamper, instead of promote, inventive genius, and tease the honest tradesman by the actions threatened without reasonable grounds.

In considering the question of what was the subject of a patent, the Court would not, if it did its duty, take the narrow ground hitherto adopted, and say that every thing was a proper subject for a patent which was new, in the sense of no one having practised it before, and of its having some, though ever so little, utility; it would look to substantial merit, to inventions which promised efficient service to the community, and adjudge accordingly. It might possibly, in rare cases, reject a meritorious invention, but this would be less injurious than the present state of doubt and confusion. By having the power of naming the time for which letters-patent should be granted, the monopoly would bear a proper relation to the merit of the invention. If, for instance, the invention was a new form of lamp, a new lock, a new mode of bookbinding, &c.—i. e. of a class which would be likely to come rapidly into use, but offer no high promise as to its general effect upon the manufacturing interests of the country—the term of protection should, and doubtless would, be of short duration. If, on the other hand, the invention consisted of a newly-applied metallurgic discovery, whereby, for instance, the manufacture of iron or copper was substantially improved, an invention involving great thought, labour, and expense to the patentee, a long term of protection would at once be granted. It is, indeed, the last class of inventions which forms the strongest argument for the retention of any patent law; the smaller inventions are sure to come; as a matter of course, competition will lead to improvement where it costs little risk and outlay; but it may well be that no one would expend a notable portion of his means in developing an invention which is not immediately lucrative, and which can only be rendered remunerative by the grant of a monopoly.

It may be said that the Court would, as the Attorney and Solicitor-General do, grant all demands, or so large a number of them as to make it hardly worth while to have the discretion vested in it. That this would not be the case is, I think, proved by the experience we have of the exercise of a similar discretion by the Judicial Committee of the Privy Council, the gradual tendency of whose decisions has been rather to restrict than to enlarge the number of prolongations granted. It would be the special business of this Patent Court, exercised in public, not a bye function exercised in

private by men whose every minute is claimed for other matters. Some obloquy would probably be incurred at first, but this would soon subside if the Court fearlessly did its duty.

In trying patent cases, the Court, by having its entire attention directed to scientific matters, would be able to deal more satisfactorily with scientific witnesses, would detect their fallacies and appreciate their sound evidence, and thus be able to unveil the truth to a jury with more success, be it said with all respect, than judges who have only occasionally to devote their minds to a class of subjects requiring a peculiar apprenticeship fairly to master them. The Court would analyse matters of fact, leaving them to a jury, so as to do away in some degree with the advantage gained by the more skilful advocate. The discretionary power of granting new trials in the hands of such a Court would be of great advantage.

All the interlocutory matters, such as the settling particulars of breaches and notices of objections, would be more fully gone into and more satisfactorily settled by such a Court than they are in the present scramble before a judge at chambers.

In considering imported inventions, the Court would use its discretionary powers with great advantage to the public. Such a case, for instance, as the importation, and application to various manufactures, of gutta percha would deserve a monopoly of some considerable duration. Such a case as the invention of the daguerreotype would not be allowed to be patented, and shut up from Englishmen in the hands of an agent, who received the communication three or four days before it was published and presented to the whole world by the French Government, which gave its inventor a pecuniary reward, on the ground that the invention was incapable of being protected by patent.

Questions of disclaimer and memoranda of alteration would be fully and openly discussed before the Court, and the publicity of these matters would not only have its recognised effect of compelling the Court to give the fullest and most careful attention to the questions on this head brought before it, but would enlighten those sections of the public interested in the patents discussed, as to the real merits of the patentees. These discussions would have the proper effect of giving increased stability to meritorious, and of exposing frivolous, patents.

With regard to *scire facias*, I should be inclined to recommend that judgment should not be given, except in cases where a verdict and judgment had been obtained against the patentee on an issue going to the validity of the patent, and that then the question of repeal be tried by the Court alone, without jury. Neither the public nor the patentee would, in effect, lose anything by this; for if a patentee could not venture to bring an action for infringement, the public would lose nothing; and if he did, then the validity of the patent would be questioned by the pleas, and, after verdict against it, the question of repeal would be tried by the Court. The patentee would thus have the benefit of the opinion of a jury; and unless that was adverse, his patent could not be repealed. Such trial would be a fairer investigation than prosecutions in *scire facias*, as hitherto tried, where the jury, not being balanced by the interests of two opposing litigants, has been liable to be swayed, either by popular interests or by sympathy with a patentee, and the verdicts in which cases have been almost proverbially unsatisfactory; while, after a previous trial, a calmer discussion of the validity of the patent could take place before the Court; and the patentee could hardly complain if a jury and a competent Court both pronounced against his patent.

Of course, this assumes that the grounds of repeal are issues of fact, such as novelty, or of mixed law and fact; issues of pure law would be for the Court alone; but these would more rarely occur than at present if a

proper discretion were exercised by the Court in the first instance in granting the patent, and in its supervision of the specification.

The jury panel for such a Court as has been suggested would probably be chosen with a view to the nature of the case to be tried, and selected from trades and professions likely to have experience in the matter coming before them. Thus, manufacturers, chemists, engineers, &c. might be selected as the jury of a Patent Court, and be able to bring their professional knowledge to bear upon the facts elicited; while the right of challenge would protect the parties against any direct or indirect interest which individuals so situated might have in the result, or against any peculiar crotchets or prejudices they might be known or supposed to entertain.

It is, I am aware, a grave question whether there should be a jury at all in patent cases; many whose opinions are entitled to the greatest weight think that patent causes would be better decided without such a tribunal. Not without deliberation, I am of a contrary opinion. The defects of jury trial are manifest; the advantages are more latent, and in some degree may be termed collateral, but, in the long run, I think outweigh the objections. The case is somewhat parallel to that of the benefits of despotism and constitutional government: under an exceptionally great man a country would be more prosperous and better governed than by a representative government; but taking the good with the bad, no thinking man—at least no Englishman—would doubt the superiority of the latter. So with a great judge, it might be sometimes better to have no jury, but with average mortals it is not so. Judges with the best intentions get fixed views and opinions; they have to watch the legal bearings of a case, to check advocates, to prepare their application of the law to the facts, to take notes, &c.; and after all it is a single mind brought to bear on conflicting and entangled evidence, and on the demeanour and character of witnesses. With the jury several minds are brought to bear on the evidence; one detects that which may have escaped others; they are not trammelled by the injurious effects of rules or habits, while they have all the benefit of these in the direction of the judge; over-technicality, which Courts are apt to run into, is avoided; each case is obliged to be so unravelled as to be brought home to a common-sense perception, and in this process light is frequently thrown on the point in discussion, which would be left in obscurity if the case were drily argued, as it commonly is, before a judge.

I could say more on this subject, but it has been frequently discussed, and would be here a digression. I think that even in patent cases a jury is a desirable bulwark, and I feel sure that it would prove a more satisfactory one to the public; at all events, it should be optional as to the graver cases, such as the question of novelty, where much conflict of evidence is likely to occur.

With a few exceptions, patent cases are tried either at Westminster or in London. An occasional case is tried on the Northern Circuit, arising in the towns of Liverpool or Manchester. Sometimes, when some impediment causes delay in London, a patent cause is, to save time, transferred to the Home Circuit. The latter case would not arise with a Patent Court constantly sitting, except in vacation time, in London—i. e. sitting during the periods now comprehended by the law terms, and the Sittings at Nisi Prius after term.

In any case where it would be inconvenient to bring causes to London from any of the great manufacturing towns, a special sitting would be held in such towns; or, if the business were found sufficient, a fixed annual assize could be held by the Patent Court in one or two of the larger towns immediately preceding or subsequent to the present assize periods, so as to be more convenient for counsel, attorneys, jurors, and witnesses.

Lastly—and this will be thought by many a great advantage—such a court need add little or nothing to the national expenditure. The accumulated funds arising from patent fees, and the fees arising from patents annually granted, would pay the whole, or a large part, of the expense of such court.

Such is an outline of the plan which I am induced, after many years' experience in the working of patent law, to submit to your readers. From the general opinion in favour of a special court which I have from time to time heard expressed by those conversant with the subject, and from the general dissatisfaction existing with regard to the present system, I have little doubt that the time will come when either a special court will be established, or patent law altogether abolished.

It is to be hoped, though perhaps hardly expected in this case, that the remedy for an unquestionable disease may be more complete when it comes than is generally the case in a country which so loves *stare super antiquas vias* as England does, forgetting the rest of the sentence, "*ut novas inveniamus*." Far be it from me to deny the advantages of our slow and cautious mode of effecting reforms: the benefit of resistance to sudden changes is immense, and the most patchwork reform is better than revolution; but the propositions I have made, if carried out, would be rather a revival of the spirit of the ancient patent law, and a return to its original intention, than the creation of new laws.

The novelty is mainly in adapting the forms of procedure to the existing state of society. The idea, which is substantially a greater degree of investigation before granting patent, to save subsequent expense and injury to inventors and the public, is founded upon the old English common law, declared and defined by the statute of James.

## Correspondence.

TO THE EDITOR OF "THE JURIST."

SIR,—The first article in your paper of last Saturday is not marked by your usual candour.

The writer of it first adverts to the "entire failure" of the late Statute-law Commission, and then (by way of contrast) propounds certain suggestions for a more convenient edition of the statutes, and for the improvement of the quality of the statutes themselves. But what will you and your readers think when informed that the whole substance of these suggestions is to be found in the Second Report of the very same commission? Read the Report, and judge for yourself.

I am not the apologist of the Statute-law Commission, nor do I say anything as to the value of the suggestions in question; but I think it right thus to point out that your contributor either has been guilty of a literary piracy of a very heinous kind, or has taken on himself to sit in judgment on a public body without being acquainted with its works.

Lincoln's-inn, Jan. 16, 1860.

M. I. B.

[In advertising to the Statute-law Commission as an "entire failure," we expressed not only our own opinion, but that of a majority of the House of Commons, who passed final sentence upon it as a "public body." Our own suggestions were not taken from the Second Report of the Statute-law Commission; they were not held out to the public as original; and whatever may be asserted to the contrary, there is not a single suggestion of any value in the Second Report of the Statute-law Commission which had not been made long prior to its issue. In saying the Statute-law Commission was an "entire failure," we never intended to criticise it for what it really has done, viz.



issue reports and papers, but for what it has, after the expenditure of 20,000*l.* of the public money, signally failed to do, viz. effect the legislative consolidation of a single subject to be found in the statute book.—Ed.]

## PUBLIC EXAMINATION OF STUDENTS.

### HILARY TERM, 1860.

At a public examination of the students of the Inns of Court, held at Lincoln's Inn Hall, on the 7th, 9th, and 10th January, 1860, the Council of Legal Education awarded to—

Hugh Shield, Esq., student of Gray's Inn, a studentship of fifty guineas per annum, to continue for a period of three years.

John Francis Rotton, Esq., student of Lincoln's Inn, and John Edwards, Esq., student of Gray's Inn, certificates of honour of the first class.

Francis Joseph Coltman, Esq., student of the Inner Temple; George Parker Bidder, Esq., student of Lincoln's Inn; Cecil James Monro, Esq., student of Lincoln's Inn; John Rigby, Esq., student of Lincoln's Inn; Arthur J. H. Collins, Esq., student of Gray's Inn; Charles Henry Walton, Esq., student of the Inner Temple; Andrew Richard Daubeney, Esq., student of Lincoln's Inn; William Henry Baillie, Esq., student of Lincoln's Inn; William Latham, Esq., student of Lincoln's Inn; and Charles Baron Clarke, Esq., student of Lincoln's Inn, certificates that they have satisfactorily passed a public examination.

By order of the Council,

(Signed) RICHARD BETHELL, Chairman.  
Council Chamber, Lincoln's Inn,  
Jan. 18, 1860.

## BROUGHAM'S ADVICE TO MACAULAY.

THE following letter, written by Lord Brougham to the father of the late Lord Macaulay, contains valuable suggestions for young men who have selected the Bar for their profession:—

"Newcastle, March 10, 1823.

"MY DEAR FRIEND,—My principal object in writing to you to-day is to offer you some suggestions, in consequence of some conversation I have just had with Lord Grey, who has spoken of your son (at Cambridge) in terms of the greatest praise. He takes his account from his son; but from all I know, and have learnt in other quarters, I doubt not that his judgment is well formed. Now you, of course, destine him for the Bar; and assuming that this, and the public objects incidental to it, are in his views, I would fain impress upon you (and through you upon him) a truth or two which experience has made me aware of, and which I would have given a great deal to have been acquainted with earlier in life from the experience of others.

"First, that the foundation of all excellence is to be laid in early application to general knowledge is clear; that he is already aware of; and equally so it is (of which he may not be so well aware) that professional eminence can only be attained by entering betimes into the lowest drudgery, the most repulsive labours of the Profession; even a year in an attorney's office, as the law is now practised, I should not hold too severe a task, or too high a price to pay, for the benefit it must surely lead to; but at all events the life of a special pleader, I am quite convinced, is the thing before being called to the Bar. A young man, whose mind has once been well imbued with general learning, and has acquired classical propensities, will never sink into a mere drudge. He will always save himself harmless from the

dull atmosphere he must live and work in, and the sooner he will emerge from it, and arrive at eminence. But what I wish to inculcate especially, with a view to the great talent for public speaking which your son happily possesses, is, that he should cultivate that talent in the only way in which it can reach the height of the art; and I wish to turn his attention to two points. I speak on this subject with the authority both of experience and observation. I have made it very much my study in theory; have written a great deal upon it which may never see the light, and something which has been published; have meditated much and conversed much on it with famous men; have had some little practical experience in it, but have prepared for much more than I ever tried, by a variety of laborious methods—reading, writing, much translation, composing in foreign languages, &c.; and I have lived in times when there were great orators among us; therefore I reckon my opinion worth listening to, and the rather, because I have the utmost confidence in it myself, and should have saved a world of trouble and much time had I started with a conviction of its truth.

"1. The first point is this—the beginning of the art is to acquire a habit of easy speaking; and in whatever way this can be had, (which individual inclination or accident will generally direct, and may safely be allowed to do so), it must be had. Now, I differ from all other doctors of rhetoric in this—I say, let him first of all learn to speak easily and fluently, as well and as sensibly as he can, no doubt, but at any rate let him learn to speak. This is to eloquence, or good public speaking, what the being able to talk in a child is to correct grammatical speech. It is the requisite foundation, and on it you must build. Moreover, it can only be acquired young; therefore let it be by all means, and at any sacrifice, be gotten hold of forthwith. But in acquiring it every sort of aloof error will also be acquired. It must be got by a habit of easy writing, (which, as Wyndham said, proved hard reading)—by a custom of talking much in company—by speaking in debating societies, with little attention to rule, and more love of saying something at any rate than of saying anything well. I can even suppose that more attention is paid to the matter in such discussions than in the manner of saying it; yet still to say it easily, ad libitum, to be able to say what you choose, and what you have to say, this is the first requisite, to acquire which everything else must for the present be sacrificed.

"2. The next step is the grand one—to convert this style of easy speaking into chaste eloquence. And here there is but one rule. I do earnestly intreat your son to set daily and nightly before him the Greek models. First of all, he may look to the best modern speeches, (as he probably has already); Burke's best compositions, as the 'Thoughts on the Cause of the present Discontents;' speech 'On the American Conciliation,' and 'On the Nabob of Arcot's Debt;' Fox's 'Speech on the Westminster Scrutiny,' (the first part of which he should pore over till he has it by heart); 'On the Russian Armament,' and 'On the War,' 1803, with one or two of Wyndham's best, and very few, or rather none, of Sheridan's. But he must by no means stop here. If he would be a great orator, he must go at once to the fountain head, and be familiar with every one of the great orations of Demosthenes. I take for granted that he knows those of Cicero by heart; they are very beautiful, but not very useful, except, perhaps, the 'Milo, pro Ligario,' and one or two more; but the Greek must positively be the model; and merely reading it, as boys do, to know the language, won't do at all; he must enter into the spirit of each speech, thoroughly know the positions of the parties, follow each turn of the argument, and make the absolutely perfect and most chaste and severe composition familiar to his mind. His taste will improve every time he reads and

repeats to himself, (for he should have the fine passages by heart), and he will learn how much may be done by a skilful use of a few words, and a rigorous rejection of all superfluities. In this view I hold a familiar knowledge of Dante to be next to Demosthenes. It is in vain to say that imitations of these models won't do for our times. First, I do not counsel any imitation, but only an imbibing of the same spirit. Secondly, I know from experience that nothing is half so successful in these times (bad though they be) as what has been formed on the Greek models. I use a very poor instance in giving my own experience, but I do assure you that both in courts of law and Parliament, and even to mobs, I have never made so much play (to use a very modern phrase) as when I was almost translating from the Greek. I composed the peroration of my speech for the Queen, in the Lords, after reading and repeating Demosthenes for three or four weeks, and I composed it twenty times over at least, and it certainly succeeded in a very extraordinary degree, and far above any merits of its own. This leads me to remark, that though speaking, with writing beforehand, is very well until the habit of easy speech is acquired, yet after that he can never write too much; this is quite clear. It is laborious, no doubt, and it is more difficult beyond comparison than speaking off-hand; but it is necessary to perfect oratory, and, at any rate, it is necessary to acquire the habit of correct diction. But I go further, and say, even to the end of a man's life he must prepare word for word most of his finer passages. Now, would he be a great orator or no? In other words, would he have almost absolute power of doing good to mankind, in a free country, or no? So he wills this, he must follow these rules.

"Believe me truly yours,  
"H. BROUGHAM."

## COURT OF QUEEN'S BENCH.

HILARY TERM.—23 VICTORIA.—Jan. 24, 1860.

This Court will hold sittings on Monday, the 6th day of February next, and two following days, and Monday, the 13th day of February next, and five following days, and will at such sittings proceed in disposing of the cases then pending in the New Trial, Special, and Crown Papers. The Court will also hold a sitting on Saturday, the 25th day of February next, for the purpose of giving judgment.

BY THE COURT.

## NEW CAUSES—HILARY TERM, 1860.

### EXCHEQUER OF PLEAS.

Midd.—Croxon v. Moss	Lond.—Horton v. M'Murtry
" Brooks v. Vestry of St. Mary, Islington	" Plant v. Cotterill
" Stephens v. Reynolds	" Same v. Same
" Walker v. Hill	" Green v. Young
Lond.—Homer v. Taunton	" Steadman v. Stocks
" Nobles v. National Discount Co.	Liverp.—Liverpool Borough Bank v. Logan.

The Right Hon. Sir William Erle, Knt., Lord Chief Justice of her Majesty's Court of Common Pleas at Westminster, has appointed the following gentlemen to be Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women:—Thomas Henry Smith, of Frederick's-place, Old Jewry, in the city of London, in and for the city of London, also in and for the city and liberties of Westminster, and counties of Middlesex and Surrey; and William Davies, of Haverfordwest, in and for the town and county of the town of Haverfordwest, also in and for the county of Pembroke.

GEORGE RICHARDSON and GEORGE TOMLINSON FRANCE, Huddersfield, Yorkshire, cloth merchants, Feb. 6 and March 5 at half-past 11, Leeds: Off. Asa. Hope; Sols. Taylor, Huddersfield; Bond & Barwick, Leeds.—Pet. d. Jan. 16.

THOMAS LIGHTFOOT, Sunderland, Durham, shipbuilder, Jan. 31 and March 6 at 12, Newcastle-upon-Tyne: Off. Asa. Baker; Sols. Young & Co., Sunderland.—Pet. f. Jan. 12.

### MEETINGS.

Thomas Henry Johnson Brown, Scott's-yard, Bush-lane, Cannon-street, City, and Blythe-lane, Hammersmith, Middlesex, builder, Feb. 9 at half-past 1, London, last ex.—Noah George Bond, Huddersfield, Yorkshire, bookseller, Feb. 13 at 11, Leeds, last ex.—Wm. Henry Hendry, Milton-next-Gravesend, Kent, coal merchant, Feb. 16 at 1, London, aud. ac.—Samuel Welldon, Manea, Cambridgeshire, machinist, Feb. 7 at 1, London, aud. ac.—Charles Bolton, Moreton-st., Pinllico, Middlesex, upholsterer, Feb. 7 at 12, London, aud. ac.—Wm. Smith, Tabernacle-row, Finsbury, Middlesex, carpenter, Feb. 7 at 2, London, aud. ac.—James Fell, Grimshaw Bridge, Over Darwen, near Blackburn, Lancashire, manufacturer, Feb. 7 at 12, Manchester, aud. ac.; Feb. 14 at 12, div.—James Doherty, Birmingham, draper, Feb. 17 at 11, Birmingham, aud. ac.; Feb. 24 at 11, div.—Charles E. Merry, Bristol, grocer, Feb. 16 at 11, Bristol, fin. div.—P. Jones, Llangattock, Monmouthshire, banker, March 1 at 11, Bristol, fin. div.—Francis Alexander, Chippenham, Wiltshire, furniture dealer, Feb. 16 at 11, Bristol, fin. div.—Henry Slater, Balsall-heath, King's Norton, Worcestershire, wholesale porter brewer, Feb. 16 at 11, Birmingham, div.—Wm. Wheeler, Broadway, near Evesham, Worcestershire, corn dealer, Feb. 17 at 11, Birmingham, div.—James Gray Soppet, North Shields, Northumberland, miller, Feb. 15 at 12, Newcastle-upon-Tyne, fin. div.—Edward E. Fenwick, Newcastle-upon-Tyne, wine merchant, Feb. 15 at half-past 11, Newcastle-upon-Tyne, first and fin. div.—A. Frazer, Newcastle-upon-Tyne, corn merchant, Feb. 17 at 12, Newcastle-upon-Tyne, fin. div.

### CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Andrew Wigdahl, Lower Thames-street, City, shipbroker, Feb. 16 at 12, London.—Wm. Henry Hendry, Milton-next-Gravesend, Kent, coal merchant, Feb. 16 at 1, London.—Alonso A. Wildbore, Old-street, Middlesex, chemist, Feb. 16 at 2, London.—Samuel Jay, Hadleigh, Suffolk, miller, Feb. 15 at half-past 12, London.—John Godfrey and John Daniel Delany, Savoy-street, Strand, Middlesex, printers, Feb. 14 at 1, London.—Isaac Davis, Bristol, cigar manufacturer, Feb. 20 at 11, Bristol.

To be granted, unless an Appeal be duly entered.

Wm. Gray, Ipswich, Suffolk, grocer.—Benjamin White, Lower Grosvenor-street, Grosvenor-square, Middlesex, tailor.—Elijah Wyett, Shipdham, Norfolk, miller.—Matthew G. White, Strand, Middlesex, picture dealer.—George Lewis, Clarence-place, Hackney-road, Middlesex, leather cutter.—James Butcher, Church-street, Hackney, Middlesex, licensed victualler.—Alexander Paine, Grove-terrace, Queen's-road, Bayswater, Middlesex, poulterer.—Charles Flint, Great Marlow, Buckinghamshire, embroiderer.—Edward Leatherland, Tipton, Staffordshire, licensed victualler.—Thomas Swift, Sheffield, Yorkshire, grocer.—Thomas Harper, Sheffield, Yorkshire, cooper.

### PETITION ANNULLED.

Wm. Dugard the younger, Birmingham, coachmaker.

### COMMISSIONERS TO ADMINISTER OATHS IN COMMON LAW.

—The following gentlemen have been appointed London Commissioners for administering oaths in courts of common law:—Queen's Bench: John Curtis, of Haberdashers' Hall, Gresham-street West, in the city of London; and Park Nelson, of No. 11, Essex-street, Strand.—Common Pleas: John Curtis, of Haberdashers' Hall, Gresham-street West, in the city of London; and Park Nelson, of No. 11, Essex-street, Strand.—Exchequer: William Danford Nelson and Park Nelson, of No. 11, Essex-street, Strand.

Just published, price 2s. 6d. sewed,  
**A TREATISE on the RAILWAY and CANAL TRAFFIC ACT, 1854, (17 & 18 Vict. c. 31);** with all the Cases decided to the present time. To which is appended the Act, and Regular Generales made pursuant thereto. By GILMORE EVANS, B.A., Barrister at Law.

H. Sweet, 3, Chancery-lane.

#### WILLIAMS ON REAL PROPERTY.

Just published, the Fifth Edition, price 18s. cloth,  
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**JAMES STREET**, Bristol, confectioner, Feb. 7 and March 5 at 11, Bristol: Off. Ass. Acraman; Sol. Tremerry, Bristol.—Pet. f. Jan. 24.

**EDWARD ELLIS HILL**, Liverpool, merchant, Feb. 7 at 12, and March 25 at 11, Liverpool: Off. Ass. Cazenove; Sols. Forshaw & Goodman, Liverpool.—Pet. f. Jan. 26.

## MEETINGS.

*Jas. Richard William John Pollard Woodward*, Oundle, Northamptonshire, innkeeper, Feb. 7 at half-past 1, London, last ex.—*John Jeyes*, Northampton, nurseryman, Feb. 7 at 12, London, last ex.—*Henry Hobbs* and *George Tilley*, St. George's-wharf, Cambridge-street, Old St. Pancras-road, and Southall, Middlesex, and Victoria-wharf, Earl-street, Blackfriars, London, brickmakers, Feb. 8 at 12, London, aud. ac. sep. est. of *Henry Hobbs*.—*Isaac White*, Biggleswade, Bedfordshire, ironmonger, Feb. 8 at 11, London, aud. ac.—*John Wood*, Drax, Yorkshire, corn dealer, Feb. 9 at 11, Leeds, aud. ac.—*John Jackson*, Fleet Mills, near Oulton, Yorkshire, corn miller, Feb. 9 at 11, Leeds, aud. ac.—*Wm. Copland*, Topcliffe, Yorkshire, corn miller, Feb. 9 at 11, Leeds, aud. ac.—*Chas. Jones*, Gloucester, sailmaker, March 3 at 11, Bristol, aud. ac.—*Wm. Levett*, Union-street, Southwark, and Blackfriars-road, Surrey, patent wadding manufacturer, Feb. 17 at 1, London, div.—*D. Bryces*, Amen-corner, Paternoster-row, City, bookseller, Feb. 17 at half-past 1, London, div.—*James Crow*, Brixton, Surrey, upholsterer, Feb. 17 at half-past 1, London, div.—*Frederick H. Dench*, High-street, Poplar, Middlesex, currier, Feb. 21 at 12, London, div.—*Thomas Carter*, Woburn, Bedfordshire, grocer, Feb. 20 at half-past 12, London, div.—*James Wm. Taylor*, Exchange-buildings, City, merchant, Feb. 20 at 12, London, div.—*John Lambert*, Nottingham, tailor, Feb. 16 at half-past 11, Birmingham, div.—*Charles Bourns*, Sutton-upon-Trent, Nottinghamshire, grocer, Feb. 16 at half-past 11, Nottingham, div.—*John Ellis*, Nottingham, victualler, Feb. 16 at half-past 11, Nottingham, div.—*Joseph Stenton*, Thorpe Common, Ecclesfield, Yorkshire, corn dealer, Feb. 18 at 12, Sheffield, div.

## CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*Meldrum S. Christie*, Grove-place, Liason-grove, Middlesex, baker, Feb. 23 at 11, London.—*Henry Harris*, Wood-street, Cheapside, City, mantle manufacturer, Feb. 21 at 1, London.

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**CHARLES LAMBOURN**, Chiswick, and Salisbury-wharf, Strand, Middlesex, barge builder, Feb. 11 at 11, and March 8 at 12, London: Off. Ass. Bell; Sol. Jones, 30, King's-arms-yard.—Pet. f. Jan. 28.

**ADOLPH WORKMAN**, Minorca, City, and Alfred-street, Bow-road, Middlesex, shoe manufacturer, Feb. 11 at half-past 11, and March 8 at 1, London: Off. Ass. Johnson; Sol. Frost, 138, Leadenhall-street.—Pet. f. Jan. 30.

**THOMAS CRICKETT JENNINGS**, Ipswich, Suffolk, tea dealer, Feb. 10 at 2, and March 9 at 1, London: Off. Ass. Whitmore; Sols. Wilde & Co., 21, College-hill, Cannon-street, London.—Pet. f. Jan. 20.

**WILLIAM JONES**, New-road, Whitechapel, Middlesex, dairyman, and Ham-park, Upton, Essex, cowkeeper, Feb. 10 at half-past 12, and March 9 at half-past 1, London: Off. Ass. Whitmore; Sols. May & Son, 2, Princes-street, Spitalfields.—Pet. f. Jan. 27.

**WILLIAM JAMES**, Dudley, Worcestershire, bolt manufacturer, Feb. 16 and March 8 at 11, Birmingham: Off. Ass. Kinneer; Sols. James & Knight, Birmingham; Warrington, Dudley.—Pet. d. Jan. 27.

**EDWARD EVANS**, Wednesbury, Staffordshire, draper, Feb. 13 and March 5 at 11, Birmingham: Off. Ass. Whitmore; Sol. Smith, Birmingham.—Pet. d. Jan. 30.

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**WILLIAM JOHN THOMAS SMITH**, Birmingham, fancy paper-box maker, Feb. 10 and March 2 at 11, Birmingham: Off. Ass. Whitmore; Sol. Ludlow, Birmingham.—Pet. d. Jan. 28.

**JAMES WHILLOCK**, Birmingham, grocer, Feb. 15 and March 21 at 11, Birmingham: Off. Ass. Whitmore; Sols. Hodgson & Allen, Birmingham.—Pet. d. Jan. 30.

**JOHN CLAYTON**, Newport, Monmouthshire, grocer, Feb. 13 and March 13 at 11, Bristol: Off. Ass. Miller; Sol. Henderson, Bristol.—Pet. f. Jan. 20.

**JOSEPH** (and not **JOHN**, as advertised in the Gazette of Jan. 20), **VARLEY**, King's Mill, near Huddersfield, Yorkshire, yarn spinner, Feb. 6 and March 5 at 11, Leeds: Off. Ass. Hope; Sols. Floyd & Learoyd, Huddersfield; Bond & Barwick, Leeds.—Pet. d. Jan. 19.

**GEORGE NOBLE WILKINSON** and **HEZEKIAH ORVIS**, Hartlepool, Durham, shipbrokers, (carrying on business under the firm of Wilkinson & Orvis), Feb. 9 at 12, and March 9 at half-past 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Hodgson & Todd, Hartlepool; Hodge & Harle, Newcastle-upon-Tyne.—Pet. f. Jan. 26.

## MEETINGS.

*Thomas Chaffer* and *Benj. Chaffer*, Liverpool, stone merchants, Feb. 10 at 12, Liverpool, pr. d.—*H. Wood*, Moor-gate-street, City, merchant, Feb. 21 at 1, London, last ex.—*John Godfrey* and *John D. Delany*, Savoy-street, Strand, Middlesex, printers, Feb. 14 at 1, London, aud. ac.—*Robert Thomas Couling*, Princes-road, Lambeth, Surrey, omnibus proprietor, Feb. 10 at 1, London, aud. ac.—*Thomas Foreman* and *Thomas Johnson*, Faversham, Kent, carpenters, Feb. 14 at 1, London, aud. ac.—*James Wycherley*, Adderbury, Oxfordshire, maltster, Feb. 10 at 11, London, aud. ac.—*Benj. G. Goode*, Sutton, Heston, near Hounslow, Middlesex, brick maker, Feb. 14 at 12, London, aud. ac.—*Alexander Caughey* and *Samuel Lander*, Bolton-le-Moors, Lancashire, joiners, Feb. 10 at 12, Manchester, aud. ac.; Feb. 23 at 12, div.—*S. Middleton*, Oldham, Lancashire, ironmonger, Feb. 10 at 12, Manchester, aud. ac.; Feb. 23 at 12, div.—*John Henry* and *Wm. R. Smith*, Bristol, publicans, Feb. 23 at 11, Bristol, aud. ac.—*Edward R. Daunt* and *George B. Daunt*, Liverpool, metal brokers, Feb. 10 at 11, Liverpool, aud. ac. joint est. and aud. ac. sep. est. of *George B. Daunt*.—*Lewis M'Leer*, Liverpool, merchant, Feb. 10 at 11, Liverpool, aud. ac.—*William Stone Hayes*, Liverpool, outfitter, Feb. 10 at 11, Liverpool, aud. ac.—*Anthony O'Donnell*, Liverpool, chair seller, Feb. 10 at 11, Liverpool, aud. ac.—*Wm. Harris* and *Wm. West*, Kingston-upon-Hull, drapers, Feb. 29 at 12, Kingston-upon-Hull, aud. ac. and div.—*John S. Broughton*, Kingston-upon-Hull, cooper, Feb. 29 at 12, Kingston-upon-Hull, aud. ac. and div.—*Anthony Heath*, Sheffield, Yorkshire, provision dealer, Feb. 11 at 12, Sheffield, aud. ac.—

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## THE JURIST.

LONDON, FEBRUARY 4, 1860.

WHEN rumours of an European Congress were rife, we need not feel astonished that a small, though wealthy and influential, portion of our community should begin to agitate for a change in our system of international law as regards maritime warfare; we allude more particularly to a letter addressed by the president of the Manchester Chamber of Commerce to their representatives in Parliament, and to a memorial presented to the Prime Minister founded upon the allegations and arguments contained in that letter. The object of both is to introduce a change in our maritime law, whereby, in future, the private property of the subjects or citizens of belligerents shall be exempt from seizure by the public-armed vessels of the other belligerents.

A similar proposition was made to the maritime powers by the Government of the United States of America in July, 1858; and it also appears that the Emperor of Russia, the Emperor of the French, the citizens of Bremen, and the Chamber of Commerce at Hamburgh, have given in their adhesion to the proposition of the United States.

That it may be advantageous to those potentates and communities, to the gentlemen constituting the Chamber of Commerce at Manchester, and similar bodies who have adopted the same views, that the proposed alteration should be effected in our international law, we can readily believe. The question, however, for us to consider, before consenting to it, is, whether the present

law is just, and, if so, whether it is not beneficial on the whole to the British Empire, not simply whether it is distasteful, or even detrimental, to the interests of a part of its inhabitants.

The present law, by which property of the enemy taken at sea is liable to confiscation as prize, is stigmatised by the Manchester Chamber of Commerce as a code of morality on the ocean strikingly barbarous and unjust. It is said that it "is fraught with evils in time of peace as well as on the outbreak of war;" such as "difficult questions arising between great nations," "extra rates of insurance," "the withholding of credits from intending operators;" and for uncertainties and inconveniences to commerce, it is said, "the consumer pays heavily in the end." Added to this is "the ruin which would befall numbers of the commercial classes on the first outbreak of war," and "the advantage conferred by steam in hostile cruisers over sailing merchant vessels," which would render the loss of merchants more severe than in former times.

The letter then points out the political advantages which may be urged for the proposed change, viz. "that our whole navy would become available for the protection of our shores and colonies."

That England, being both an American and European power, is more likely to be engaged in a maritime war than other powers. From this it is said to follow, that under the present system, especially in distant ports, preference would be given to the vessels of other nations less exposed to become engaged in such contests; while the proposed change, it is said, "would relieve the British mercantile marine from the danger of serious disadvantage in time of peace, as well as from that of utter

*inactivity in time of war."* And, lastly, that "nothing is more likely to alienate our colonies from the mother country than that their ships and floating property should be endangered by a war originating in some European question, about which they might be wholly indifferent."

We trust, however, that our mercantile marine will be so well protected by our navy as not to be "utterly inactive." It was not so during former, nor do we think it likely so to be during future, wars, should they unhappily break out. With regard to our colonies, we think they are more loyal than the letter gives them credit for being.

The letter of the president next proceeds to demolish seriatim the only arguments which are in his opinion to be adduced against the proposed change. The first argument, it is said, is, "that war must be made calamitous in order to expedite its termination, and indispose nations to resort to it on frivolous pretexta." This argument is at once disposed of by the assertion that "it is open to a simple *reductio ad absurdum*, for, if logically carried out, it would justify the most atrocious practices of savage ages." And referring to an opinion of Lord Palmerston, "that no powerful country was ever vanquished by losses sustained by individuals," the president illustrates that opinion by asking us to remember "that the first Napoleon attained the highest point of his power after the naval forces of France, and with them her foreign maritime commerce, had been destroyed by the battle of Trafalgar."

Now, the reason usually given for allowing the capture of hostile property at sea is, that the resources of the enemy will be thereby crippled, and he will eventually, from his losses, be disabled from carrying on war. We do not see how this argument is open to the *reductio ad absurdum*, even if that objection fairly applies to the argument put by the president in the mouth of his opponents. His illustration in the case of the first Napoleon is most unfortunate; he surely does not mean to say that Napoleon attained his highest point of power in consequence of the battle of Trafalgar. That would be like the belief that an oft-cited steeples was the cause of the Goodwin Sands. We will presume he meant that Napoleon became great in spite of that celebrated battle. If, however, we look back to history, does it not tell us that the destruction of the combined fleet at Trafalgar—the annihilation, in fact, of the French naval power and her mercantile marine—gave confidence to Europe, then lying prostrate under the military tyranny of Napoleon, and led to those great combinations which destroyed his armies, and placed him at length a solitary prisoner on the rock of St. Helena?

The result of that great contest, and the knowledge that the same means would be again used, has, we have little doubt, "indisposed nations to resort to war on frivolous pretexta," and given us an European peace of forty years' duration.

The second argument said to be used in favour of the present system, "that the prospect of prize money lessens the cost of manning the navy," is met by the assertion, that it is a shortsighted and narrow economy to attempt to keep down the direct expenses of the navy by a system which holds the commerce of this

country in uncertainty. And, moreover, as sailors get so small a share of prize money, the distant chance of it has no appreciable effect in inducing them to enter the service. Now, we very much doubt whether the allowance of prize money is not made rather for the purpose of manning the navy expeditiously than cheaply, and if the proportion the sailors get of the prize money is too small, that is an evil which might easily be remedied.

Moreover, we cannot but think, considering how long the right to capture at sea has been recognised by all nations, that the objection which is made so light of—viz. that such a change in international law will not be respected longer than may suit the convenience of either belligerent—has great weight, and cannot be satisfactorily disposed of. Reference is made to past history to shew that European nations have, with rare exceptions, respected the principles of international law, when well defined and established by their unanimous concurrence. Surely the worthy president must have forgotten the Berlin and Milan decrees, in which the principles of international law were systematically and wilfully violated, and which this country was compelled, in a retaliatory spirit, to meet by the well-known Orders in Council of 1807 and 1809. Such a man as the first Napoleon would not, if it opposed his own interests, have shewn more respect to a convention, whereby private property was to be protected from capture at sea, than he did to the law of nations when he issued the Berlin and Milan decrees. And will the mercantile men of Manchester guarantee us against the accession to the supreme authority, in some great military and naval State, of one who, like the first Napoleon, may obtain enormous power, and be equally faithless and vindictive in his mode of using it?

But the gentlemen of the Manchester Chamber of Commerce do not trouble themselves to go back to the history of what, to them perhaps, appears a remote period; they refer to an historical fact to be found in the recent files of their newspapers, and they gravely assert, as an instance of the increasing humanity of the age, "the release by the Emperor of the French of the Austrian merchant ships seized in the late war, in order, as he expressed it, 'to attenuate the evils of war.'"

The motives of the Emperor of the French will, perhaps, be better judged by some history which has yet to be written. We cannot, however, but consider that the desire "to attenuate the evils of war" sounds something like a mere flourish, and the act itself merely shews that, for some reason best known to himself, the Emperor of the French wished to conclude peace as soon as possible, and upon the most amicable terms, with the Emperor of Austria.

It is true that a distinction has been observed (and not, we believe, without good reason, as we shall hereafter attempt to shew) between private property on land and private property at sea: the former is generally exempt from, the latter is liable to, capture. But we may here notice, en passant, that the first Napoleon continually violated the rule relating to the former, by seizing works of art and other property on land. For instance, in 1796 he seized the property of the English merchants at Leghorn, and obtained by the sale 12,000,000 francs for the use of his army.

If, in consequence of any alteration of the present rule relating to capture, our navy were to be neglected,



and the naval supremacy of this country transferred to another power, our mercantile men would, we believe, have bitter cause to regret that an over-anxiety for gain, or a dread of pecuniary loss, even though accompanied by philanthropic motives, should have induced them to play the game of England's rivals or enemies, and to deliver us bound into their hands.

The subject raised by the Manchester Chamber of Commerce ought not, we think, to be settled at any Congress until it has first been well discussed in Parliament, where the interests of the whole country either are, or are supposed to be, represented.

## REGISTRATION OF LITERARY COPYRIGHT.

THE Stationers Company originated in a voluntary association of the printers and booksellers of London, who, when the press had become formidable, were incorporated by charter of Philip and Mary, (May 4, 1556), with the exclusive right in their members to exercise the art or mystery of printing in England. They passed by-laws, requiring every member who printed a book to enter it on their register before publication, and imposing fines on those who printed books which did not belong to them. By the stat. 13 & 14 Car. 2, c. 33, for preventing abuses in printing, every book and pamphlet was required to be entered in the register of the Stationers Company before publication, and also to be licensed by the appointed licenser\*. This act, which was modelled on equally arbitrary ordinances of the Commonwealth, and on previous injunctions or orders in council by the Crown, after being several times revived or continued, expired in the reign of William III.

The forfeiture of the pirated copies, and 1*d.* per sheet, imposed by the stat. 8 Ann. c. 19, was not incurred unless the title to the copy was entered in the register book of the Stationers Company before publication, (sect. 2), or, in the case of a university copyright, within two months after knowledge of the bequest or gift on the part of the Vice-Chancellor, or head of the university or college. (15 Geo. 3, c. 53). But under the stat. 41 Geo. 3, c. 107, omitting to register prevented the recovery of the pecuniary penalty (then raised to 3*d.* per sheet) only, and not the forfeiture of the pirated copies. (Sect. 4). And by the stat. 54 Geo. 3, c. 156, s. 5, the entry was made immaterial, so far as regarded the copyright and the penalties for infringement; but for the purpose of giving information of books demandable on behalf of the public libraries, entry within a limited time after publication was made compulsory, under a penalty.

Registry within a limited time is essential to the existence of copyright under the International Copyright Act.

\* "All books concerning the common laws of this realm shall be printed by the special allowance of the Lord Chancellor or Lord Keeper, or by their or one or more of their appointments; and all books of history concerning the state of this realm, or other books concerning any affairs of state, shall be licensed by the Principal Secretaries of State for the time being, or one of them, or by their or one of their appointments; and all books to be imprinted concerning heraldry, titles of honour, and arms, or otherwise concerning the office of Earl Marshal, shall be licensed by the Earl Marshal for the time being, or by his appointment; or in case there shall not then be an Earl Marshal, by the three Kings of Arms—Garter, Clarenceux, and Norroy, whereof Garter, principal King of Arms, to be one; and all other books to be imprinted or reprinted, whether of divinity, physic, philosophy, or whatsoever other sciences or art, shall be first licensed and allowed by the Archbishop of Canterbury and Bishop of London, or one of them, or by either of the Chancellors or Vice-Chancellors of either of the universities."

Under the existing law, in cases not within the International Copyright Act, registration of title to copyright is permissive, and not imperative, except as a condition precedent to the right to sue in respect of infringement of literary copyright. (5 & 6 Vict. c. 45, ss. 11, 24). A suit for the infringement of the exclusive right of performance of a dramatic piece may be commenced without previous registration. Nothing is said as to actions for infringement of the right to perform music. But both as to dramatic and musical composition it is provided, (sect. 22), that an assignment of the copyright of a dramatic or musical composition shall not pass the right of performance, unless an entry, expressing the intention to pass that right, is made in the registry. The intention seems to have been, that even an express assignment of the right of representation should be inoperative unless it is registered; but the words are scarcely sufficient to support that construction; and no provision is made for an exclusive license for a district; and there is no provision for enabling a person who registers his title to a work, in part of which only he has copyright, to disclaim the part in which he has no right, as an inventor can in his specification\*. (See *Chappell v. Sheard*, 1 Jur., N. S., part 1, p. 996; 2 Kay & J. 117).

The title must be registered before suing for infringement, but it is not necessary that the entry should have been made before the infringement complained of. The object of this provision has not been discovered.

Entry on the registry at Stationers' Hall is declared to be *prima facie* evidence of title, but subject to be rebutted by other evidence. (Sect. 11). Persons wilfully making false entries are punishable, and a remedy is given to any person aggrieved by any entry to have it expunged or corrected†. When the author's name is on the title-page, and he is the proprietor, an entry under the statute is superfluous as a matter of evidence; and therefore an entry of proprietorship by some one claim-

\* The 11th section provides for the keeping of a book of registry at Stationers' Hall, "wherein may be registered, as hereinafter enacted, the proprietorship in the copyright of books, and assignments thereof, and in dramatic and musical pieces, whether in manuscript or otherwise, and *licenses* affecting such copyrights." The office of the Stationers Company is required to give certified and stamped copies of entries in the book, which copies are declared to be *prima facie* proof of the proprietorship or assignment of copyright or license as therein expressed, but subject to be rebutted by other evidence. The words "as hereinafter enacted" refer to the 13th section, which is the only one containing any directions respecting the mode of registering; but none of the forms referred to in that section can be applied, without alteration, to a license, or to an assignment of a portion of a proprietor's interest; and there is no express authority to vary the forms. There is no doubt, however, that the forms may be varied so as to give effect to the intention expressed in the 11th and 13th sections, and that an assignment of a share of a copyright, or a license to print, (which is an assignment of a portion of the interest in the copyright), may be registered by an entry containing the necessary variations from the form given in the act. Thus, where the Uniformity of Process Act, 2 & 3 Will. 4, c. 39, s. 2, directed that an appearance should be entered in one of the three forms contained in the schedule, without saying "or to the like effect," and there was no form of appearance by the plaintiff in person for the defendant, it was held that the plaintiff might appear in person for the defendant, making the necessary alteration in the form, because the act contained a general enactment authorising the plaintiff to enter an appearance for the defendant. (*Smith v. Wedderburne*, 16 M. & W. 104).

The 15th and 17th sections, which require a license to print, and to be in writing, may be satisfied by a license entered under the 13th section. (See the form No. 4).

† See *Ex parte Bastow*, (14 C. B. 691), where an order was made on the affidavit of title by a former registered proprietor.



ing as assignee must have been contemplated. If a person who has no title procure himself to be registered as proprietor, how is his *prima facie* title under the registry to be rebutted? It is evidence of his title at the date of the entry. It cannot, therefore, be rebutted by shewing that at some time prior to the entry some other person was entitled, for the prior title may have determined; and in the case supposed there must have been a time when some other person, namely, the author, was entitled. The *prima facie* case made by the entry can, therefore, be rebutted only by proof of a subsequent alienation by the person registered as proprietor, or by proof that the alleged copyright never existed at all in any person, (as by shewing a prior publication abroad), or that it has determined, or by calling the author, or some one who proves a title under him prior to the registration, to prove that no assignment has been made to the plaintiff. If another person claims to be entitled to the copyright, his remedy is to apply to the court or a judge for an order to expunge the entry, which will be granted, with costs, if the applicant proves his case, the burthen of proof, of course, lying in him. But see *Ex parte Davidson*, stated below. This provision, and that which makes the wilful procuring of a false entry a misdemeanour, are quite sufficient to prevent any ill use being made of the enactment, which thus in a very efficient and unobjectionable manner relieves the plaintiff from the trouble and expense of proving his proprietorship, in all cases when that fact is not disputed, by some party who is able to give *prima facie* evidence of an adverse title. The effect of the enactment was discussed at the trial of *Boosey v. Purday*, but no light was thrown on it, the Chief Baron holding that proof of a first publication abroad was fatal to the existence of any copyright here.

The construction here suggested is encountered by the authority of *Davidson v. Bohn*, (6 C. B. 456; 12 Jur., part 1, p. 922), which was an action for the infringement of the plaintiff's copyright in certain songs. The plaintiff had registered his title to all of them under the act 5 & 6 Vict. c. 45. The songs had all been composed long before the passing of that act. The plaintiff claimed under assignments from the composers, and it is stated in The Jurist report, that, his title by registration being rebutted by evidence on the part of the defendant, he was driven to prove it by other means; and the original assignments by the authors (long prior to the act of Victoria) having been by parol, except one, (an assignment of songs in *Der Freischütz*), which was by deed attested by one witness, it was held that the title was not proved, the statute of Anne requiring licenses, and therefore *a fortiori* assignments of copyright, to be in writing, attested by two witnesses. It is submitted that this decision cannot be supported, unless, which does not appear, there was some distinct evidence on the defendant's part inconsistent with the assumption that the plaintiff had any title at the date of the registry. It was not noticed in the case that the stat. 34 Geo. 3, c. 156, which was passed before the publication of *Der Freischütz*, does not require a license to be attested. The decision was, therefore, wrong on that ground. (Per Crompton, J., 4 H. L. C. 854).

In *Stevens v. Wildy* (19 L. J., Ch., 190) the bill, filed by the author and publishers of a work for relief against piracy, stated that the work had been composed and published for the joint benefit of the plaintiffs, who had been duly registered at Stationers' Hall as the proprietors. There was no entry of the author's original title, but an entry in the first instance of the joint ownership of the author and the publishers, made shortly before the filing of the bill, and rather more than a month after the publication by the defendant of the alleged piracy. Sir L. Shadwell, V. C., held that the plaintiffs' title was sufficient, and said that an au-

thor might associate with himself, by registry under the act, any person he pleased. It was, perhaps, sufficient for the purposes of the decision to say that the entry was *prima facie* evidence of title; and, notwithstanding this decision, the better course, in cases where an assignment by deed is not taken, is to follow the order prescribed by the act, of first registering the author's title alone, and then making an entry of the assignment by him.

Where an injunction to restrain the infringement of an alleged copyright had been dissolved, with liberty to the plaintiff to bring an action, and the stat. 5 & 6 Vict. c. 45, having passed before the action was commenced, the plaintiff made an entry of title, and then commenced an action, the Court of Exchequer, on an application by the defendant to have the entry expunged on the ground that the plaintiff was not the proprietor of the copyright, said, that though it was a strong case for interference, the point ought to be settled, not on affidavits, but by an issue. But on the plaintiff undertaking not to use the entry as evidence on the trial, the rule was discharged. (*Chappell v. Purday*, 12 M. & W. 303).

In another case, in which the defendant applied to have the entries of the plaintiff's title to certain music expunged, on affidavit of information and belief that the pieces of music were old, and not composed by the authors in whose names they were registered, the plaintiff having refused to undertake that he would not use the entries as evidence on the trial, the Court of Queen's Bench directed that the action should be stayed until after the trial of an issue as to the existence and the ownership of copyright in the music, in which the entries were not to be set up. (*Ex parte Davidson*, 2 El. & Bl. 577). But in a subsequent case, (*Ex parte Davidson*, 18 C. B. 297), on the application of the defendant (in an action directed by the Court of Chancery to be brought to try the title to a musical composition) to have the plaintiff's entry and title expunged, on the ground that it would be prejudicial to the defence, which was, that the work was first published in America, the Court of Common Pleas refused to interfere by expunging or altering the entry without proof that it was erroneous, and disclaimed having the power to act as the Court of Queen's Bench had done in the former case. The entry was only *prima facie* evidence of title, and might be rebutted at the trial. If expunged, it could not be restored. (See *Chappell v. Purday*, 12 M. & W. 306).

The case of *Chappell v. Purday*, and the first case of *Ex parte Davidson*, seem to attribute more force to the entries than was intended, or perhaps than the words of the statute fairly convey. The entry is made a condition precedent to the commencement of an action or suit, though, as it may be subsequent to the cause of action, the utility of making it is not apparent. Being made, it is *prima facie* evidence of the plaintiff's title. The object of the statute, therefore, plainly was, in every case of an action by a person claiming copyright, to throw the burthen of disproving the alleged title on the defendant. That object would be defeated in every instance if the defendant could, by assuming the character of a person "aggrieved by the entry," and applying, under the 14th section, upon affidavit, on the trial of an issue, put the plaintiff upon independent proof of his title. The 14th section was intended to apply only in favour of persons who had proved themselves to be aggrieved; and even in proceedings under that section the burthen of proof is, by the 11th section, thrown upon the party applying, and the entry can be expunged only on such evidence as would, in an action by the registered proprietor, prevail against his *prima facie* title under the registry. To direct an independent issue to try a fact which is already in issue between the parties is superfluous, unless the mode of proof be varied,

which was done by the Court of Queen's Bench in *Ex parte Davidson*, but, as it seems, contrary to the express terms of the statute. G. S.

### BOROUGH COURT OF DERBY.

By Orders in Council, bearing date the 23rd ult., and published in *The London Gazette* of the 24th ult., it is ordered, that within one month after such publication all the provisions of the Common-law Procedure Act, 1852, and of the Common-law Procedure Act, 1854, and of the rules made, or to be made, in pursuance of the said two acts, shall extend and apply to the Court of Record of the borough of Derby, called the Borough Court.

And it is further ordered, that all the powers or duties exercisable by the court or a judge, under any of the sections of the said Common-law Procedure Acts, 1852 and 1854, so extended and applied to the said Court of Record, shall, as regards matters and proceedings therein, be exercisable and exercised by the judge of the said court, or any deputy or assistant judge thereof; that all the powers or duties exercisable by a master, under any of the sections of the said acts as aforesaid, shall, as regards matters and proceedings in the said court, be exercisable and exercised by the registrar of the court, or his deputy; and that the powers or duties exercisable by a sheriff, under any of the sections of the said acts as aforesaid, shall, as regards matters and proceedings in the said court, be exercisable and exercised, within the jurisdiction of the said court, by the serjeant-at-mace of the said borough of Derby.

It is also ordered, that within one month after such publication all the provisions of the Summary Procedure on Bills of Exchange Act, 1856, shall extend and apply to the said Court of Record of the borough of Derby; and that the forms given in Schedules (A.) and (B.) to the said act annexed may and shall be so altered as to make the same applicable to the said Court of Record, and the judge and deputy or assistant judge thereof, instead of to her Majesty's superior courts at Westminster, and the judges thereof; and that the costs mentioned in the 1st section of the said act shall be fixed by the registrar of the said Court of Record, subject to the approval of the judge thereof; and that the judge of the said court, or any deputy or assistant judge thereof, shall and may, as to the said court, exercise all the powers given by the said act to any judge or judges of the superior courts at Westminster, in or by the 1st, 2nd, 3rd, and 4th sections thereof.

### GENTLEMEN CALLED TO THE BAR.

THE following gentlemen have been called to the degree of Barrister at Law:—

**LINCOLN'S INN.**—Henry Allison Pottinger, Esq., M.A.; Andrew Richard Daubeny, Esq., B.A.; Francis Smale Drake, Esq., B.A.; William Hale Willats, Esq., B.A.; John Rigby, Esq., M.A.; Andrew Commings, Esq., M.A. and LL.D.; Cecil James Monro, Esq., B.A.; William Hornby Birley, Esq., M.A.; James George Edwards, Esq., B.A.; Henry William Woodbridge, Esq., B.A.; Richard Yapp, Esq., M.A.; Henry Mainwaring Sladen, Esq.; William Leverton Donaldson, Esq., B.A.; Dennis Milner, Esq.; Alexander Ogilvie Lloyd, Esq., M.A.; Newdigate Hooper Kearney Burne, Esq.; William Charles Harvey, Esq., B.A.; and Edward Rudge, Esq., B.A.

**INNER TEMPLE.**—Francis Joseph Coltman, Esq.; William Court Gully, Esq., M.A.; John Martineau Fletcher, Esq., M.A.; Alfred Cutbill, Esq., B.A.; and Gateward Coleridge Davis, Esq.

**MIDDLE TEMPLE.**—John Malcolm Sewell, Esq., LL.B.; E. P. Wood, Esq., B.A.; E. H. Harvey, Esq.; R. N. Lee, Esq.; and Bassett Smith, Esq.

**GRAY'S INN.**—Hugh Shield, Esq., M.A., (holder of studentship, from Council of Legal Education); John Edwards, Esq., (certificate of honour, first class, from Council of Legal Education); James Cornelius Brough, Esq.; and Lionel Uniacke Steele, Esq.

### EXAMINATIONS AT THE INCORPORATED LAW SOCIETY.

HILARY TERM, 1860.

At the examination of candidates for admission on the roll of attorneys and solicitors of the Superior Courts, the Examiners recommended the following gentlemen, under the age of twenty-six, as being entitled to honorary distinction:—

John Oddin Howard Taylor, aged twenty-two, who served his clerkship to Messrs. Taylor & Ling, of Norwich.

Richard John Littlewood, aged twenty-two, who served his clerkship to Messrs. Collinson, of Doncaster.

John Shoard, LL.B., aged twenty-two, who served his clerkship to Mr. Arundel Rogers, of King's-bench-walk, Temple; and Messrs. Becke & Metcalfe, of Bedford-row, London.

John Batchelor, aged twenty-one, who served his clerkship to Messrs. Kingsford & Dorman, of Essex-street, London.

Charles William Duncan, aged twenty-four, who served his clerkship to Mr. William Gray, of York.

The Council of the Incorporated Law Society have accordingly awarded the following prizes of books:—

To Mr. Taylor, the prize of the Honourable Society of Clifford's-inn; to Mr. Littlewood, the prize of the Honourable Society of Clement's-inn; to Mr. Shoard, one of the prizes of the Incorporated Law Society; to Mr. Batchelor, one of the prizes of the Incorporated Law Society; and to Mr. Duncan, one of the prizes of the Incorporated Law Society.

The Examiners have also certified that the following candidates, whose names are placed in alphabetical order, passed examinations which entitle them to commendation:—

George Henry Chambley, aged twenty-one, who served his clerkship to Mr. John Simpson Rutter, of Wolverhampton; and Messrs. Loftus & Young, of New-inn, London.

Marmaduke Matthews the younger, aged twenty-two, who served his clerkship to Messrs. G. F. Hudson & Co., of Bucklersbury, London.

John Churchill Sikes, aged twenty-two, who served his clerkship to Mr. William Francis Holcroft, of Sevenoaks; and Messrs. Loftus & Young, of New-inn, London.

James William Grant Wollen, aged twenty-two, who served his clerkship to Messrs. Kitson, of Torquay; and Messrs. Gregory, Son, & Clark, of Clement's-inn, London.

The Council have accordingly awarded them certificates of merit.

The Examiners have further announced to the following candidates that their answers to the questions at the examination were highly satisfactory, and would have entitled them either to a prize or a certificate of merit if they had been under the age of twenty-six:—

Charles Thomas Foster, aged thirty-one, who served his clerkship to Mr. William Hunt, of Field-court, Gray's-inn.

Henry Murray, aged thirty-five, who served his clerk-

ship to Messrs. Miller & Horn, of George-yard, Lombard-street, and St. Martin's-place, Trafalgar-square.

Henry William Parker, aged twenty-seven, who served his clerkship to Messrs. Marshall & Sanderson, of Berwick-upon-Tweed; and Messrs. Woods & Jackson, of Rochdale.

Thomas Ponsford, aged forty-eight, who served his clerkship to Mr. Copleston Lopes Radcliffe, of Plymouth.

The number of candidates examined in this term was 82; of these 69 were passed, and 13 postponed.

By Order of the Council,

ROBERT MAUGHAM, Secretary.

### MARITIME INTERCOURSE IN TIME OF WAR.

THE following is a copy of the memorial of the Manchester Chamber of Commerce to Lord Palmerston:—

"That public attention is daily becoming more and more alive to the inconsistency in the existing rule and practice of international law, as affecting the property of the subjects of belligerent States on land and at sea respectively.

"That throughout the hostile operations which have been carried on in Europe within the last few years, the ships and cargoes of non-combatants have, as in former wars, been held liable to seizure, confiscation, or destruction; while, on the contrary, a strong disposition has been manifested to abstain from inflicting unnecessary injury upon private property on land.

"That your memorialists are of opinion that it is both desirable and politic that the latter course of action, so much more in accordance with the principles of justice and humanity, should, if possible, be extended towards private property on the high seas in time of war; and the assembling of an European Congress would appear to offer a most favourable occasion for the discussion of so important a change in international law.

"That the general adhesion of European nations to the principles of maritime law comprised in the basis laid down at the Congress of 1856, taken together with the surrender by the French of the Austrian merchant vessels captured by them in the late Italian war, lead your memorialists to indulge the hope that the question would be favourably entertained at the approaching Congress.

"That inasmuch as it is universally admitted that no war has been brought to a termination by reason of the amount of injury or loss inflicted upon private persons, but rather from political considerations, or by the decisive superiority of the military or naval power of one of the belligerents, your memorialists would respectfully submit that the proposed change would not be open to the objection of having a tendency to prolong hostilities, but, on the contrary, by mitigating the calamities of war, it would confer a lasting benefit upon mankind at large, and directly promote the interests of civilisation.

"Your memorialists would, therefore earnestly entreat your Lordship to take this most important subject into your early and favourable consideration, and that you will exercise the influence of her Majesty's Government in bringing the same under the notice of foreign nations, either at the approaching Congress, or in such other manner as your Lordship in your wisdom may deem most effectual."

COMMISSIONER TO ADMINISTER OATHS IN CHANCERY.—The Lord Chancellor has appointed Robert Galsworthy, Gent., of Ipswich, Suffolk, to be a Commissioner to administer oaths in the High Court of Chancery in England.

### Court Papers.

#### EQUITY SITTINGS, AFTER HILARY TERM, 1860.

#### Court of Chancery.

Before the LORD CHANCELLOR.

At Lincoln's Inn.

Wednesday .. Feb. 8	First Seal.—Appeal Motions and Appeals.
Thursday .....	9
Friday .....	10
Saturday .....	11
Monday .....	13
Tuesday .....	14
Wednesday .... 15	Second Seal.—Appeal Motions and Appeals.
Thursday .....	16
Friday .....	17
Saturday .....	18
Monday .....	20
Tuesday .....	21
Wednesday .... 22	Third Seal.—Appeal Motions and Appeals.
Thursday .....	23
Friday .....	24
Saturday .....	25
Monday .....	27
Tuesday .....	28
Wednesday .... 29	Fourth Seal.—Appeal Motions and Appeals.
Thursday .. March 1	
Friday .....	2
Saturday .....	3
Monday .....	5
Tuesday .....	6
Wednesday .... 7	Fifth Seal.—Appeal Motions and Appeals.
Thursday .....	8
Friday .....	9
Saturday .....	10
Monday .....	12
Tuesday .....	13
Wednesday .... 14	Sixth Seal.—Appeal Motions and Appeals.
Thursday .....	15
Friday .....	16
Saturday .....	17
Monday .....	19
Tuesday .....	20
Wednesday .... 21	
Thursday .....	22
Friday .....	23
Saturday .....	24
Monday .....	26
	Petitions.
	Seventh Seal.—Appeal Motions and Appeals.

Notice.—Such days as his Lordship shall be engaged in the House of Lords are excepted.

Before the LORDS JUSTICES.

At Lincoln's Inn.

Wednesday .. Feb. 8	First Seal.—Appeal Motions and Appeals.
Thursday .....	9
Friday .....	10
Saturday .....	11
Monday .....	13
Tuesday .....	14
Wednesday .... 15	Second Seal.—Appeal Motions and Appeals.
Thursday .....	16
Friday .....	17
Saturday .....	18
Monday .....	20
Tuesday .....	21
	Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
	Appeals.
	Appeals.
	Appeals.
	Appeals.

Wednesday ....	23	Third Seal.—Appeal Motions and Appeals.
Thursday .....	23	Appeals.
Friday .....	24	Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Saturday .....	25	
Monday .....	27	Appeals.
Tuesday .....	28	
Wednesday ....	29	Fourth Seal.—Appeal Motions and Appeals.
Thursday .. March 1		Appeals.
Friday .....	2	Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Saturday .....	3	
Monday .....	5	Appeals.
Tuesday .....	6	
Wednesday ....	7	Fifth Seal.—Appeal Motions and Appeals.
Thursday .....	8	Appeals.
Friday .....	9	Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Saturday .....	10	
Monday .....	12	Appeals.
Tuesday .....	13	
Wednesday ....	14	Sixth Seal.—Appeal Motions and Appeals.
Thursday .....	15	Appeals.
Friday .....	16	Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Saturday .....	17	
Monday .....	19	
Tuesday .....	20	Appeals.
Wednesday ....	21	
Thursday .....	22	
Friday .....	23	Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Saturday .....	24	Appeals.
Monday .....	26	Seventh Seal.—Appeal Motions and Appeals.

*Notice.*—The days (if any) on which the Lords Justices shall be engaged in the full Court, or at the Judicial Committee of the Privy Council, are, excepted.

*Before the MASTER OF THE ROLLS.*

*At Chancery-lane.*

Wednesday .. Feb. 8	First Seal.—Motions.
Thursday .....	9
Friday .....	10
Saturday .....	11
Monday .....	13
Tuesday .....	14
Wednesday ....	15
Thursday .....	16
Friday .....	17
Saturday .....	18
Monday .....	20
Tuesday .....	21
Wednesday ....	22
Thursday .....	23
Friday .....	24
Saturday .....	25
Monday .....	27
Tuesday .....	28
Wednesday ....	29
Thursday .. March 1	
Friday .....	2
Saturday .....	3
Monday .....	5
Tuesday .....	6
Wednesday ....	7
Thursday .....	8
Friday .....	9
Saturday .....	10
Monday .....	12
Tuesday .....	13
Wednesday ....	14
Thursday .....	15
Friday .....	16
Saturday .....	17

Monday .....	19
Tuesday .....	20
Wednesday ....	21
Thursday .....	22
Friday .....	23
Saturday .....	24
Monday .....	26

General Paper.

Petition Day.

Seventh Seal.—Motions.

N. B.—Short Causes, Short Claims, Consent Causes, Petitions, and Claims every Saturday. The Unopposed Petitions will be taken first, and the Petitions must be presented and copies left with the Secretary on or before the Thursday preceding the Saturday on which it is intended they should be heard.

*Before the Vice-Chancellor Sir RICHARD T. KINDERSLEY.*

*At Lincoln's Inn.*

Wednesday .. Feb. 8	First Seal.—Motions and General Paper.
Thursday .....	9
Friday .....	10
Saturday .....	11
Monday .....	13
Tuesday .....	14
Wednesday ....	15
Thursday .....	16
Friday .....	17
Saturday .....	18
Monday .....	20
Tuesday .....	21
Wednesday ....	22
Thursday .....	23
Friday .....	24
Saturday .....	25
Monday .....	27
Tuesday .....	28
Wednesday ....	29
Thursday .. March 1	
Friday .....	2
Saturday .....	3
Monday .....	5
Tuesday .....	6
Wednesday ....	7
Thursday .....	8
Friday .....	9
Saturday .....	10
Monday .....	12
Tuesday .....	13
Wednesday ....	14
Thursday .....	15
Friday .....	16
Saturday .....	17
Monday .....	19
Tuesday .....	20
Wednesday ....	21
Thursday .....	22
Friday .....	23
Saturday .....	24
Monday .....	26

*Before the Vice-Chancellor Sir JOHN STUART.*

*At Lincoln's Inn.*

Wednesday .. Feb. 8	First Seal.—Motions and General Paper.
Thursday .....	9
Friday .....	10

Saturday .....	11	Short Causes, Short Claims, and General Paper.
Monday .....	13	General Paper.
Tuesday .....	14	General Paper.
Wednesday ....	15	Second Seal.—Motions and General Paper.
Thursday .....	16	General Paper.
Friday .....	17	Petitions and General Paper.
Saturday .....	18	Short Causes, Short Claims, and General Paper.
Monday .....	20	General Paper.
Tuesday .....	21	General Paper.
Wednesday ....	22	Third Seal.—Motions and General Paper.
Thursday .....	23	General Paper.
Friday .....	24	Petitions and General Paper.
Saturday .....	25	Short Causes, Short Claims, and General Paper.
Monday .....	27	General Paper.
Tuesday .....	28	General Paper.
Wednesday ....	29	Fourth Seal.—Motions and General Paper.
Thursday .. March 1		General Paper.
Friday .....	2	Petitions and General Paper.
Saturday .....	3	Short Causes, Short Claims, and General Paper.
Monday .....	5	General Paper.
Tuesday .....	6	General Paper.
Wednesday ....	7	Fifth Seal.—Motions and General Paper.
Thursday .....	8	General Paper.
Friday .....	9	Petitions and General Paper.
Saturday .....	10	Short Causes, Short Claims, and General Paper.
Monday .....	12	General Paper.
Tuesday .....	13	General Paper.
Wednesday ....	14	Sixth Seal.—Motions and General Paper.
Thursday .....	15	General Paper.
Friday .....	16	Petitions and General Paper.
Saturday .....	17	Short Causes, Short Claims, and General Paper.
Monday .....	19	General Paper.
Tuesday .....	20	General Paper.
Wednesday ....	21	General Paper.
Thursday .....	22	General Paper.
Friday .....	23	Petitions and General Paper.
Saturday .....	24	Short Causes, Short Claims, and General Paper.
Monday .....	26	Seventh Seal.—Motions.

*Before the Vice-Chancellor Sir W. P. Wood.*

*At Lincoln's Inn.*

Wednesday .. Feb. 8		First Seal.—Motions and General Paper.
Thursday .....	9	General Paper.
Friday .....	10	General Paper.
Saturday .....	11	Petitions, Short Causes, Claims, and General Paper.
Monday .....	13	General Paper.
Tuesday .....	14	General Paper.
Wednesday ....	15	Second Seal.—Motions and General Paper.
Thursday .....	16	General Paper.
Friday .....	17	General Paper.
Saturday .....	18	Petitions, Short Causes, Claims, and General Paper.
Monday .....	20	General Paper.
Tuesday .....	21	General Paper.
Wednesday ....	22	Third Seal.—Motions and General Paper.
Thursday .....	23	General Paper.
Friday .....	24	General Paper.
Saturday .....	25	Petitions, Short Causes, Claims, and General Paper.
Monday .....	27	General Paper.
Tuesday .....	28	General Paper.
Wednesday ....	29	Fourth Seal.—Motions and General Paper.

Thursday .. March 1		General Paper.
Friday .....	2	General Paper.
Saturday .....	3	Petitions, Short Causes, Claims, and General Paper.
Monday .....	5	General Paper.
Tuesday .....	6	General Paper.
Wednesday ....	7	Fifth Seal.—Motions and General Paper.
Thursday .....	8	General Paper.
Friday .....	9	General Paper.
Saturday .....	10	Petitions, Short Causes, Claims, and General Paper.
Monday .....	12	General Paper.
Tuesday .....	13	General Paper.
Wednesday ....	14	Sixth Seal.—Motions and General Paper.
Thursday .....	15	General Paper.
Friday .....	16	General Paper.
Saturday .....	17	Petitions, Short Causes, Claims, and General Paper.
Monday .....	19	General Paper.
Tuesday .....	20	General Paper.
Wednesday ....	21	General Paper.
Thursday .....	22	General Paper.
Friday .....	23	General Paper.
Saturday .....	24	Petitions, Short Causes, Claims, and General Paper.
Monday .....	26	Seventh Seal.—Motions.

### COURT OF EXCHEQUER.

HILARY TERM.—23 VICTORIA.—*Jan. 26, 1860.*

THIS Court will hold sittings on Thursday, the 9th, Friday, the 10th, Saturday, the 11th, Monday, the 13th, Tuesday, the 14th, and Wednesday, the 15th days of February next, and will at such sittings proceed in disposing of the business then pending in the paper of New Trials and in the Special Paper. And will also hold a sitting on Saturday, the 25th day of February next, and will on that day proceed in giving judgment in all matters then standing for judgment.

FREDERICK POLLOCK.  
SAMUEL MARTIN.  
W. F. CHANNELL.

The Right Hon. Sir William Erle, Knt., Lord Chief Justice of her Majesty's Court of Common Pleas at Westminster, has appointed the following gentlemen to be Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women:—Maurice Frederick Carter, of Newnham, Gloucestershire, in and for the county of Gloucester; William Ford, of No. 31, Lincoln's-inn-fields, in and for the city of London, also in and for the city and liberties of Westminster, and the county of Middlesex; Charles Bell, of Bedford-row, in and for the city of London, also in and for the city and liberties of Westminster, and the county of Middlesex; Samuel Whitchurch Perry, of Churchill, near Bristol, in and for the county of Somerset, also in and for the city of Bristol, and the county of the same city; Joseph Rayner, of Huddersfield, Yorkshire, in and for the West Riding of the county of York; John Nanson, of Carlisle, in and for the county of Cumberland; James Dundas Down, of Dorking, Surrey, in and for the county of Surrey; James George Langham, of Hastings, Sussex, in and for the county of Sussex; Clement Waldron, of Cardiff, Glamorganshire, in and for the county of Glamorgan; Malim Messiter, of Frome, Somersetshire, in and for the county of Somerset; Martin Richardson, of Bridlington, Yorkshire, in and for the East Riding of the county of York; Thomas Howard, of Dudley, Worcestershire, in and for the county of Worcester; and Thomas Mortimer Siddall, of Alfreton, Derbyshire, in and for the county of Derby.

## CIRCUITS OF THE JUDGES.

(Mr. Justice CROMPTON will remain in Town).

SPRING CIRCUITS, 1860.	NORFOLK.	HOMER.	MIDLAND.	WESTERN.	OXFORD.	N. WALES.	S. WALES.	NORTHERN.
	C. J. Cockburn J. Williams	C. J. Erie J. Wightman	L. C. P. Lock J. Willes	B. Martin B. Channell	B. Bramwell J. Keating	B. Watson	J. Byles	J. Hill J. Blackburn
Thurs., Feb. 16	.....	.....	.....	.....	.....	.....	.....	Lancaster
Monday .. 20	.....	.....	.....	.....	.....	.....	.....	Appleby
Wednesday.. 22	.....	.....	.....	.....	.....	.....	.....	Carlisle
Saturday... 25	.....	.....	.....	.....	.....	.....	Haverford-	.....
Monday .... 27	.....	.....	Oakham	.....	.....	.....	[west & Tr.	Newcastle &
Tuesday .... 28	.....	Hertford	.....	Winchester	.....	.....	.....	[Town
Wednesday.. 29	.....	.....	Northampton.	.....	Reading	.....	.....	.....
Thurs., Mar. 1	.....	.....	.....	.....	.....	.....	Cardigan	.....
Friday ..... 2	.....	.....	.....	.....	.....	.....	.....	Durham
Saturday.... 3	.....	.....	Leicest. & B.	.....	Oxford	.....	.....	.....
Monday .... 5	.....	Chelmsford	.....	Dorchester	.....	.....	.....	.....
Tuesday .... 6	Aylesbury	.....	.....	.....	.....	.....	Carmarthen	.....
Wednesday.. 7	.....	.....	Nottingham	.....	Worcester &	.....	.....	York & City
Thursday.... 8	.....	.....	[& Town	Exeter & City	[City	.....	.....	.....
Saturday.... 10	.....	.....	Lincoln &	.....	.....	.....	.....	.....
Monday .... 12	Bedford	Maidstone	[City	.....	Stafford	Welchpool	Swansea	.....
Wednesday.. 14	.....	.....	.....	Bodmin	.....	.....	.....	.....
Thursday ... 15	Huntingdon	.....	Derby	.....	.....	Bala	.....	.....
Friday..... 16	.....	.....	.....	.....	.....	.....	.....	.....
Saturday.... 17	Cambridge	.....	.....	.....	.....	.....	.....	.....
Monday .... 19	.....	Lewes	.....	Taunton	Shrewsbury	Carnarvon	.....	.....
Wednesday.. 21	.....	.....	Warwick	.....	.....	.....	.....	Liverpool
Thursday.... 22	Bury St. Ed.	Kingston	.....	.....	Hereford	Beaumaris	.....	.....
Saturday.... 24	.....	.....	.....	Devises	.....	Ruthin	Brecon	.....
Monday .... 26	.....	.....	.....	.....	Monmouth	.....	.....	.....
Tuesday .... 27	Norwich and	.....	.....	.....	.....	.....	.....	.....
Wednesday.. 28	[City	.....	.....	Bristol	.....	Mold	Presteign	.....
Thursday.... 29	.....	.....	.....	.....	Gloucester &	.....	.....	.....
Saturday ... 31	.....	.....	.....	.....	[City	Chester	Chest. & City	.....

Thomas Harper, Sheffield, Yorkshire, cooper, Feb. 11 at 12, Sheffield, aud. ac.—Joseph Thompson, Sheffield, Yorkshire, grocer, Feb. 11 at 12, Sheffield, aud. ac.—John Allen, Broadway, Deptford, Kent, and Grey Eagle-street, Spitalfields, Middlesex, shoe manufacturer, Feb. 22 at 11, London, div.—Samuel Willett the elder, Cheltenham, Gloucestershire, plumber, Feb. 23 at 11, Bristol, fn. div.—Thomas Allen, Newport, Monmouthshire, cornfactor, Feb. 23 at 11, Bristol, div.—John Phillips, Birmingham, wood turner, Feb. 20 at 11, Birmingham, div.—John Haywood, Warwick and Milverton, Warwickshire, miller, Feb. 22 at 11, Birmingham, div.—John Hieron Radford, Nottingham, lace manufacturer, Feb. 16 at 11, Nottingham, div.—John Glasdon, Newark-upon-Trent, Nottinghamshire, steam-boller maker, Feb. 16 at 11, Nottingham, div.—Joseph Swan, Quay Side, Newcastle-upon-Tyne, and Bellevue, near Gateshead, Durham, shipowner, Feb. 21 at half-past 11, Newcastle-upon-Tyne, div.—Robert James Brown, Sunderland, Durham, timber merchant, Feb. 23 at 12, Newcastle-upon-Tyne, div.

## CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Robert Parker, Tooley-street, Southwark, Surrey, wheelwright, Feb. 22 at 12, London.—Wm. Harris Hall, Shrewsbury, Shropshire, auctioneer, Feb. 24 at 11, Birmingham.—Wm. Moore, Leicester and Ansty, Leicestershire, shoe manufacturer, Feb. 21 at half-past 11, Nottingham.—Job Mimmack Smith, Lincoln, draper, Feb. 29 at 12, Kingston-upon-Hull.

To be granted, unless an Appeal be duly entered.

William Cullingford, Gerard-street, Soho, Middlesex, wooleadrapier.—B. Barnett, Burlington-gardens, Bond-st., Middlesex, dealer in pictures.—John Richardson Winchscott, Albion-street, Hyde-park, and Charlotte-st., Fitzroy-square, Middlesex, picture dealer.—Wm. Rez, Wandsworth and Putney, cowkeeper.—Esther Louisa Mayne, Exeter, milliner.—Thomas Morris, Long Eaton, Derbyshire, joiner.—William Robert Baxter and Frederick George Baxter, Birmingham, curriers.—John Ellis, Nottingham, victualler.

—John Hieron Radford, Nottingham, lace manufacturer.—John Wheeler, Coventry, Warwickshire, builder.—Charles Bourne, Sutton-upon-Trent, Nottinghamshire, grocer.—Percival Tunstall, Goldenhill, Staffordshire, builder.—John Rimmington and Samuel Rimmington, Kingston-upon-Hull, tea dealers.—Hezekiah Wingad, Nettleham, Lincolnshire, tailor.—John Oxley, Rotherham, Yorkshire, scrivener.—W. Smedley, York, grocer.—John M'Kean, Huddersfield, Yorkshire, woollen merchant.

## PARTNERSHIP DISSOLVED.

Henry Bell and James R. Stevenson, Liverpool, attornies, solicitors, and notaries.

## SCOTCH SEQUESTRATIONS.

Alexander M'Neill, deceased, Edinburgh, advocate.—P. Tait, Perth, shoemaker.—James Ridditch, Dumfries, tailor.—Thomas Tubb, Edinburgh.—James Webster, deceased, Longforgan, Perthshire, farmer.

## COMMISSIONERS TO ADMINISTER OATHS IN COMMON LAW.

—The following gentlemen have been appointed London Commissioners for administering oaths in courts of common law:—Queen's Bench: John Loxley, of No. 80, Cheapside; Henry Nicol, of No. 88, Queen-street, Cheapside; John Murray, of No. 7, Whitehall-place, Westminster; David Gray, of No. 20, Lincoln's-inn-fields; Alfred Charles Tatham, of No. 11, Staple-inn; and W. Clarke, of 29, Coleman-street, City.—Common Pleas: John Loxley, of No. 80, Cheapside; Henry Nicol, of No. 88, Queen-street, Cheapside; John Murray, of No. 7, Whitehall-place, Westminster; David Gray, of No. 20, Lincoln's-inn-fields; Alfred Charles Tatham, of No. 11, Staple-inn; and W. Clarke, of 29, Coleman-street, City.—Eschequer: Henry Nicol, of No. 88, Queen-street, Cheapside; John Murray, of No. 7, Whitehall-place, Westminster; David Gray, of No. 20, Lincoln's-inn-fields; and W. Clarke, of 29, Coleman-street, City.

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FEBRUARY 11, 1860.

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## GAZETTES.—FRIDAY, Feb. 3.

## BANKRUPTS.

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THEODORE HYL A JENNENS, Halkin-street West, Belgrave-square, and Church-street, Chelsea, Middlesex, papier maché manufacturer, Feb. 21 at half-past 2, and March 20 at 2, London: Off. Ass. Lee; Sols. Lawrance & Co., 14, Old Jewry-chambers, London.—Pet. f. Feb. 2.

ISAAC NATHAN, Bury-street, Bevis Marks, City, merchant, Feb. 14 at 2, and March 20 at 1, London: Off. Ass. Edwards; Sols. J. & J. H. Linklater & Co., 7, Walbrook.—Pet. f. Jan. 20.

THOMAS SHARP, Aldershot, Southampton, hotel keeper, Feb. 13 at 1, and March 19 at 12, London: Off. Ass. Pennell; Sols. Reeve & Mayhew, 10, Tokenhouse-chambers, Tokenhouse-yard, Lothbury, London.—Pet. f. Jan. 31.

GEORGE CUCKOW, Woodbridge, Suffolk, grocer, Feb. 13 at 2, and March 19 at 1, London: Off. Ass. Pennell; Sols. Jay & Pilgrim, Norwich; Jay, 14, Bucklersbury, London.—Pet. f. Jan. 23.

WILLIAM BOSWELL, Birmingham, licensed victualler, Feb. 13 and March 5 at 11, Birmingham: Off. Ass. Kinnear, (and not Whitmore, as previously advertised); Sol. East, Birmingham.—Pet. d. Jan. 26.

RICHARD REES, Llanelly, Carmarthenshire, cabinet maker, Feb. 13 and March 13 at 11, Bristol: Off. Ass. Miller; Sols. King & Plummer, Bristol; Lepard & Gammon, Cloak-lane, London.—Pet. f. Jan. 19.

JOSEPH CHAPMAN, Scarborough, Yorkshire, china dealer, Feb. 13 and March 19 at 11, Leeds: Off. Ass. Hope; Sols. Smith, Birmingham; Bond & Barwick, Leeds.—Pet. d. Jan. 21.

JOSEPH GAWTHORPE, Horbury-bridge, near Wakefield, Yorkshire, cloth miller, Feb. 17 and March 23 at 11, Leeds: Off. Ass. Young; Sols. Harrison & Smith, Wakefield; Bond & Barwick, Leeds.—Pet. d. and f. Jan. 27.

THOMAS HOBSON, Sheffield, Yorkshire, grocer, Feb. 18 and March 24 at 10, Sheffield: Off. Ass. Brewin; Sol. Unwin, Sheffield.—Pet. d. Feb. 1.

EDWARD ELLIS HILL, Liverpool, merchant, Feb. 7 at 12, and March 5 at 11, Liverpool: Off. Ass. Cazenove; Sols. Forshaw & Goodman, Liverpool.—Pet. f. Jan. 26.

THOMAS NICHOLSON, Sunderland, Durham, steel, file, and nail merchant, Feb. 14 at half-past 11, and March 13 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Hoyle, Newcastle-upon-Tyne; Hill & Mathews, St. Mary-axe, London.—Pet. f. Jan. 13.

## MEETINGS.

Edward Harris, Folkestone, Kent, tailor, Feb. 15 at half-past 1, London, last ex.—Charles Bolton, Moreton-street, Piccadilly, Middlesex, upholsterer, Feb. 21 at 2, London, last ex.—Abraham Bernal, Whitechapel-road, Middlesex, glass dealer, Feb. 15 at 2, London, aud. ac.—John Bagshaw, Dovercourt, near Harwich, Essex, lodging-house keeper, Feb. 15 at half-past 11, London, aud. ac.—Charles Walton and William Walton, Clement's-lane, City, shipbrokers, Feb. 16 at 11, London, aud. ac., and Feb. 24 at 11, div. joint and sep. ests.—William Levett, Union-street, Southwark, and Blackfriars-road, Surrey, patent wadding manufacturer, Feb. 16 at 11, London, aud. ac.—William Henry Naylor, Wisbech St. Peter, Cambridgeshire, builder, Feb. 16 at half-past 11, London, aud. ac.; Feb. 24 at half-past 1, div.—James Crow, New Park-road, Brixton, Surrey, upholsterer, Feb. 16 at 11, London, aud. ac.—William Gray, Ipswich, Suffolk, grocer, Feb. 16 at 11, London, aud. ac.; Feb. 24 at 1, div.—David Bryce, Amen-corner, Paternoster-row, City, bookseller, Feb. 16 at half-past 11, London, aud. ac.—Henry Harris, Wood-street, Cheapside, City, mantle manufacturer, Feb. 21 at 1, London, aud. ac.—James Allen, Pelham-terrace, Bayswater, Middlesex, omnibus proprietor, Feb. 21 at 12, London, aud. ac.—John Carter the younger and Charles Carter, Clifton, Bristol, brewers, March 1 at 11, Bristol, aud. ac. sep. est. of John Carter, and div. joint est.—John Henry and William Randall Smith, Bristol, publishers, Feb. 23 at 11, Bristol, aud. ac.—Andrew Froud,

Liverpool, draper, Feb. 15 at 11, Liverpool, aud. ac.—John Montgomery, Liverpool, furniture broker, Feb. 21 at 11, Liverpool, aud. ac.; Feb. 24 at 11, div.—Lydia M'Lellan, Mostyn Arms, Llandudno, Carnarvonshire, innkeeper, Feb. 21 at 11, Liverpool, aud. ac.; Feb. 24 at 11, div.—Joseph Sloan, Newcastle-upon-Tyne, shipowner, Feb. 17 at 12, Newcastle-upon-Tyne, aud. ac.—John Scott, Warrington, Lancashire, corn dealer, Feb. 21 at 12, Manchester, aud. ac.; Feb. 28 at 12, div.—James Armistead, Burnley, Lancashire, grocer, Feb. 21 at 12, Manchester, aud. ac.; Feb. 28 at 12, div.—Robert Caldecott, Manchester, boarding-house keeper, Feb. 21 at 12, Manchester, aud. ac.; Feb. 28 at 12, div.—George Holden the elder and George Holden the younger, pencil-case manufacturers, Feb. 13 at 11, Birmingham, aud. ac.—John White, Leicester, joiner, March 1 at 11, Nottingham, aud. ac.—Joseph Stenton, Thorpe-common, Ecclesfield, Yorkshire, corn dealer, Feb. 18 at 10, Sheffield, aud. ac.—John Oxley, Rotherham, Yorkshire, scrivener, Feb. 18 at 10, Sheffield, aud. ac.—James Cotterell, Lowestoft, Suffolk, soap boiler, Feb. 28 at 12, London, div.—Thomas Coulson Taylor, Conduit-street, Hanover-square, Middlesex, house decorator, Feb. 28 at 1, London, div.—Nicholas Corlessy and Paul Maximos, Threadneedle-street, City, merchants, Feb. 27 at half-past 12, London, div.—George Griffith Chester, Shrewsbury, Shropshire, tailor, Feb. 27 at 11, Birmingham, div.—Langley Burton, Melton Mowbray, Leicestershire, upholsterer, March 1 at 11, Nottingham, div.—William Kinnard, Liverpool, corn merchant, Feb. 24 at 11, Liverpool, div.—Samuel Atack, Leeds, Yorkshire, builder, Feb. 24 at 11, Leeds, div.—Joseph Hickson, Sheffield, Yorkshire, ironmonger, Feb. 25 at 10, Sheffield, div.

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## TUESDAY, Feb. 7.

## BANKRUPTS.

CHARLES JONES the younger, Margaret-street, Cavendish-square, and Great Castle-street, Regent-street, Middlesex, coachbuilder, Feb. 24 and March 21 at 12, London: Off. Ass. Stansfeld; Sol. Abrahams, 17, Gresham-street.—Pet. f. Jan. 26.

ALFRED CHARLES AYRES, Ramsgate, Kent, surgeon, Feb. 24 and March 21 at 1, London: Off. Ass. Stansfeld; Sol. Buchanan, 13, Basinghall-street.—Pet. f. Feb. 6.

THOMAS PHILLIPS, Birmingham, engraver, Feb. 17 and March 9 at 11, Birmingham: Off. Ass. Kinnear; Sols. Powell & Son, Birmingham.—Pet. d. Feb. 1.

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## THE JURIST.

LONDON, FEBRUARY 11, 1860.

EASEMENTS by implied grant may arise upon the severance of an heritage by its owner into two or more parts; upon such severance a grant will be implied—first, of all those continuous and apparent easements which have, in fact, been used by the owner during the unity, though they have had no legal existence as easements; and, secondly, of all those easements without which the enjoyment of the severed portions could not be fully had.

The latter are generally termed easements of necessity; the former it is proposed to call "the disposition of the owner of two tenements," as expressing the same as the French legal phrase, "destination du père de famille." By this expression "is understood the disposition or arrangement which the proprietor of several heritages (fonds) has made for their respective use. Sometimes one heritage receives a benefit from another, without being in turn subjected to an inconvenience, which would amount to a species of compensation; sometimes this service is reciprocal: but these differences do not in any way change the nature or effect of this distribution. If afterwards these heritages should become the property of different owners, whether by alienation, or division amongst his heirs, the service which the one derived from the other, and which was simple 'destination du père de famille' as long as the heritages belonged to the same owner, becomes a servitude as soon as they pass into the hands of different proprietors." (Pardessus *Traité des Servitudes*, s. 228).

Thus writes Mr. Gale in his valuable treatise on the Law of Easements; and, having divided his subject in

this manner, he lays down these two propositions—first, that this easement by implied grant, on the severance of property, does not depend on the doctrine of "no one being allowed to derogate from his own grant," but is as effective for, as it is against, the grantor; and, secondly, that by "apparent and continuous" should be understood, not only those apparent signs which must necessarily be seen, but those which may be seen or known by a person ordinarily conversant with the subject. The first of these propositions is most abundantly proved by the cases he cites; and the second has been indorsed by the judges of the Court of Exchequer in a late case. (*Pyer v. Carter*, 26 L. J., Ex., 258). He then proceeds to discuss the cases which he considers to come under his first division, and the effect of the most important of these we will briefly give.

If a man possesses two closes, A. and B., and a watercourse runs from the former to the latter, and he aliens A., the alienee cannot obstruct the watercourse. (*Shury v. Pigott*, Poph. 106; *Cunham v. Fiske*, 2 Cr. & J. 126). Again: if a man erects a house, and builds a conduit to it on another part of his land, and then sells the land, or, vice versa, sells the house and appurtenances, and keeps the land, the conduit remains with the owner of the house, because it is necessary, and quasi appendant; and if a lessee were to do the same, and after the lease the lessor to occupy, the result would be similar, though not so if the lessor conveyed during the lease. (*Nicholas v. Chamberlaine*, Cro. Jac. 121). And where the owner of two adjoining tenements, or of a house and land, lets the one, and keeps the other, or lets both to different persons, or grants instead of letting, the owners or occupiers of the respective tenements cannot build so as to interfere with existing lights. (*Cox v. Mathews*, 1 Vent. 237; *Swanborough v. Coventry*, 9 Bing. 305; *Ri-*

*where v. Bowyer*, 1 Ry. & M. 24; *Coutts v. Graham*, Moo. & M. 396). Where a man owned two houses, with a carriage drive common to both, and devised the houses to two different persons, it was considered that there was not such a permanent alteration of the premises as to necessitate the continuance of the common user of the drive. (*Phesey v. Vicary*, 16 M. & W. 484). But it is not necessary that the houses should be finished, and it is quite sufficient if the space for the window exists in the carcase at the time of severance. (*Compton v. Richards*, 1 Price, 27). To these cases we may add some recent ones, which would fall under the same head—the case of *Richards v. Ross*, (17 Jur., part 1, p. 1036; 23 L. J., Ex., 3), which places the right of mutual support between adjoining houses built by one man on the same footing; the case of *Pyer v. Carter*, (26 L. J., Ex., 288), where, under similar circumstances, a mutual servitude as to drains was upheld; and the case of *Glave v. Harding*, (27 L. J., Ex., 86), which follows *Compton v. Richards*.

Mr. Gale then proceeds to his second division, and after premising that a way of necessity is only one species of this class, and citing two cases, which decide, that if a man, in conveying away his land, reserves the mines, he has the liberty of going on the land, making pits, and fixing machinery, (*David v. Kingscote*, 6 M. & W. 196), and that if a lessor except certain trees, he may enter to shew them to a buyer, (*Liford's case*, 11 Rep. 52; *Davy v. Arkwith*, Hob. 234), he cites a series of cases, referring simply to ways of necessity, and their extinction on the cessation of the necessity; to which list we may add the late case of *Pinnington v. Galland*, (22 L. J., Ex., 348).

Now, notwithstanding our very natural bias in favour of anything written by Mr. Gale on this subject, and notwithstanding our equally natural disinclination to except from anything countenanced by so great an authority, we doubt the necessity of the division he has adopted, or, indeed, that such division rests on any sound basis. It seems to us that all the cases of implied grants arising on the severance of a heritage may be included under the one general proposition, "that, on the severance of an heritage by its owner into two or more parts, a grant and reservation will be implied of all easements apparently necessary to the state or user of the different portions, either existing, or contemplated by the parties at the time of division." The case of the reservation of mines (placed by Mr. Gale in his second division) clearly falls within our proposition, as a right to go on the land and dig &c. was most apparently necessary to the clearly contemplated user of the mines; and similarly as to the reservation of the trees. Again: as to ways of necessity which arise when a man grants or reserves a portion of his land, to which access can only be got by passing over the remainder, here, most assuredly, access to the land is apparently necessary to its state and for its user, both existing and contemplated by the parties. With regard to the cases of natural watercourses, we think they do not fall within our subject at all, as we agree with Whitelocke, C. J., who founded his decision in *Shury v. Pigott* on the ground of the right being one, not by the consent of parties, but *ex jure naturæ*. And as to the conduit and the drain cases, the houses could not have been enjoyed in their existing state without the conduit and drain respectively, which were therefore necessary to the existing state of the houses—and, indeed, we may say, necessary to the state and user contemplated by the parties; and even the drain was "apparently" so—"apparent" being used in the sense adopted in *Pyer v. Carter*. The cases of windows are *à fortiori* ones; and those in which the houses were not finished, but the spaces left for the windows, most peculiarly adapt themselves to our proposition.

If a line were to be drawn anywhere, we should say

that easements of necessity should be confined either to those necessary to any enjoyment, or to the enjoyment in its natural state of the land; which would include the cases of what are called "ways of necessity." But if this line is exceeded, and such cases as the reservation of mines included, it is quite impossible to stop; for although ingenious distinctions may be drawn between such cases and those placed by Mr. Gale under his first division, no really sound ones can be suggested. We submit, however, that no such line is necessary; that there is no valid distinction; and that the general proposition we have laid down includes all the cases, is consonant with them, and is sound.

## THE IMPORTATION OF REPRINTS OF ENGLISH BOOKS INTO THE UNITED KINGDOM AND THE COLONIES.

In the infancy of the art of printing, the importation of written and printed books from abroad was encouraged\*, but afterwards was placed under regulation, with a view to protect English industry, as well as to prevent the circulation of seditious publications. In the reign of Henry VIII an act was passed† to prohibit the importing of books bound abroad, and the retail selling by aliens of books printed abroad, and to regulate the prices of books. The Licensing Act, 13 & 14 Car. 2, c. 33, enacted that all books imported should be examined by learned examiners appointed by the Archbishop of Canterbury and the Bishop of London. (Sect. 5). Another clause prohibited, under penalties, the importation of reprints which any person, by letters-patent, or by force of any entry in the register of the Stationers Company, or of either of the universities, should have the exclusive privilege of printing, (sect. 6); and by another section, for the encouraging of the art of printing, and the prevention of seditious books and pamphlets printed abroad, the importation of books printed in English, whether formerly printed in England or not, was absolutely prohibited on pain of forfeiture. (Sect. 9). The Licensing Act was continued or revived from time to time, but ultimately expired in 1694.

In the statute of Anne, and the subsequent acts relating to copyright, the importation of foreign reprints of copyright works is placed on the same footing as piracy by reprinting in this country. But the existing Copyright Act, 5 & 6 Vict. c. 45, further authorises the seizure and destruction of pirated copies from abroad by any officer of customs or excise, and imposes a penalty of 10*l.* and double the value of the copies, 6*l.* to be paid to the officer, and the remainder of the penalty to the proprietor of the copyright. (Sect. 17). The direction that the officer shall destroy the copies is inconsistent with the provision in another section, (sect. 23), that unlawfully printed or imported copies shall belong to the owner of the copyright. By the International Copyright Act, 7 & 8 Vict. c. 12, the importation into the British dominions of copies of books in which there is copyright under the act, printed or reprinted in any foreign country, *except that of the first publication*, is prohibited under the regulations contained in the Customs Acts with respect to pirated copies of British works. By the 15 & 16 Vict. c. 12, the importation of such copies of original works of literature or art, or of unauthorised translations, is prohibited under the regulations contained in the general Copyright Act, 5 & 6 Vict. c. 45, s. 17, with respect to pirated copies of British works; and by the

\* The stat. 1 Rich. 3, c. 9, against alien handicraftsmen, contained an exception in favour of aliens importing, or writing, or printing books. (Sect. 12).

† 25 Hen. 8, c. 15, repealing 1 Rich. 3, c. 9, s. 12.

stat. 7 & 8 Vict. c. 12, persons importing, selling, or exposing to sale or hire, pirated copies, *wheresoever printed*, are made subject to a special action on the case, as by the Copyright Act is provided with respect to British works. As the prohibition only extends to books included in the customs lists, which are subject to correction, there seems to be no reason in the distinction between pirated copies printed out of the country of first publication and pirated copies printed in that country or in a British colony.

The stat. 12 Geo. 2, c. 36, prohibited, during a period of seven years, the importation into Great Britain of foreign reprints of books first printed in Great Britain, with exceptions in favour of reprints of books not reprinted here within twenty years, and of collections. The prohibition was revived, and extended to the United Kingdom, and made perpetual, by the Copyright Act, 41 Geo. 3, c. 107. It had nothing to do with copyright, but was founded on the circumstance that the duty on printed books was lower than that on printing paper. It was repeated from time to time by the acts for the regulation of the customs, (e. g. the 6 Geo. 4, c. 107, and the 3 & 4 Will. 4, c. 62), and was repealed by the stat. 5 & 6 Vict. c. 47, which imposed different rates of duty on books imported, according as they were printed before or after the year 1801, or in English or foreign languages. These duties were repealed as to books printed before the year 1801, and reduced as to other books, by the stat. 16 & 17 Vict. c. 64; and now, by the stat. 18 & 19 Vict. c. 97, the duty on books printed after the year 1801 is 1*l.* 10*s.* per cwt., unless imported from any country with which we have international copyright, or from any British possession, and then it is 1*s.*

The first prohibition (as a customs regulation) of the importation of unauthorised reprints of works subject to British copyright occurs in the 5 & 6 Vict. c. 47, and was confined to books of which notice in writing, stating the time at which the copyright would expire, should be given to the Commissioners of Customs, who were required to make out printed lists of the books so notified, to be publicly exposed at the several ports of the United Kingdom. This provision was confined to the United Kingdom; but the general prohibition contained in the Copyright Act, 5 & 6 Vict. c. 45, extends to the colonies, and is still unrepealed, except with respect to colonies brought under the provisions of stat. 10 & 11 Vict. c. 95, (to be presently noticed), by Order in Council. The general prohibition in the Copyright Act is not taken notice of by the officers of the customs.

The stat. 5 & 6 Vict. c. 47, was repealed by the 8 & 9 Vict. c. 84, and the prohibition was re-enacted (as to the United Kingdom) by cap. 86 of the same session, with an additional and inexplicable general prohibition of "paper printed on in the English language." (Sect. 63). By cap. 93 of the same session, sect. 9, (a customs act), the prohibition was extended to the colonies.

By stat. 10 & 11 Vict. c. 95, it is enacted, that if the legislature in any British possession shall, by any act or ordinance, make such provision as her Majesty shall deem "sufficient for the purpose of securing to British authors reasonable protection within such possession," her Majesty may, by Order in Council, suspend the prohibition contained in the acts 5 & 6 Vict. c. 45, and 8 & 9 Vict. c. 93, or any other acts against the importing &c. of foreign reprints of British copyright works, so long as such act or ordinance continues in force.

The Customs Acts were again repealed, and their provisions consolidated, in the session of the 16 & 17 Vict.; and by cap. 107 the prohibition of the importation of copyright books notified to the Commissioners of Customs was re-enacted, both as to the United Kingdom (sects. 44, 46) and as to the colonies, (sect. 160), but subject to the provisions of stat. 10 & 11 Vict. c. 95.

An act of the next session, 18 & 19 Vict. c. 96, s. 40,

requires the notices to the commissioners of copyright books to be verified by declaration, (sect. 40), and gives a remedy to persons aggrieved by wrongful entries in the lists.

We do not know by what influence, or for what purpose, the stat. 10 & 11 Vict. c. 95, enabling the Queen in Council to limit the rights of British authors in the colonies, was passed, and we cannot imagine any pretence or excuse for it. If it is right that literary property should be protected here, it is right that it should be protected in the colonies. The act, and the ordinances and orders which have been passed under its provisions, place British authors in a worse position, with respect to the colonies, than they are in with respect to France and the other countries with which treaties have been made under the International Copyright Acts; in a worse position than authors in those countries are in with respect to the United Kingdom, or even with respect to the very colonies so privileged by Order in Council, for the stat. 10 & 11 Vict. c. 95, only extends to British authors; and in a worse position than colonial authors are in with respect to the United Kingdom. The law required no alteration; absolute prohibition of piracy is the only effectual protection against it, and anything short of that is less than authors are entitled to.

If the enactment has any operation at all, it must operate to admit foreign or unauthorised reprints of copyright works, and it is not easy to see how that can be done consistently with the rights of the authors. The measure is injurious to the interests of the colonies as well as of British authors. It is confined to *foreign* reprints, and does not authorise the reprinting of copyright works within the favoured colony, or within any other colony. If it operates at all, it must therefore operate to give a monopoly within the colony to *foreign* paper makers, printers, and publishers—to discourage native industry and enterprise at the expense of British authors.

The act was first brought into operation, with respect to the provinces of New Brunswick and Nova Scotia, by an Order in Council, dated the 11th August, 1848, approving of a provision made by the colonial legislatures for levying an *ad valorem* duty of 20*l.* per cent. on the *bonâ fide* price of the publication, on the importation of foreign reprints of books first published in Great Britain and Ireland, and protected by the law of copyright—such duty to be transmitted through her Majesty's Government for the benefit of the author, and such reprints which are unlawfully imported to be seized and sold, and half the proceeds, together with a portion of the penalty paid by the offender, to be remitted for the benefit of the author. Other Orders in Council, approving of similar provisions, made in Prince Edward's Island, Barbadoes, Bermuda, the Bahamas, St. Christopher, Antigua, St. Lucia, Canada, British Guiana, St. Vincent, the Mauritius, Grenada, Jamaica, the Cape of Good Hope, Nevis, and Natal, were subsequently made, the duties varying from 15*l.* to 20*l.* per cent., and the remittance in some cases being subject to a deduction for expenses of collection. The benefit of the act was extended to Canada by an Order in Council, dated the 12th December, 1850, approving of an act of the colonial legislature passed in the same year, (No. 780), authorising the Governor in Council to impose an *ad valorem* duty, not exceeding 20*l.* per cent., upon books imported into the province, (wherever the copyright shall be subsisting), first composed, written, or printed in the United Kingdom, and printed or reprinted in any other country, with regard to which the notice to the Commissioners of Customs, required by any act of the Imperial Parliament in force in that behalf, shall have been given, and from time to time to alter the said duty, not exceeding in any case the rate aforesaid, (a reduction has, we understand, been actually made, and the present duty is 15*l.* per cent.), and from time to time to esta-

blish such regulations and conditions as may be consistent with any act of Parliament of the United Kingdom then in force, and as he may deem requisite and equitable with regard to the admission of such books, and to the distribution of the proceeds of such duty to or among the party or parties beneficially interested in the copyright.

The duty, not exceeding 20l. per cent., is imposed on the import wholesale price of the foreign reprints, and is to be collected for the benefit of the owner of the copyright, and is the only compensation he can receive for the loss of his property. The current retail price of Macaulay's History of England, in Canada, is 6d. per volume, the import price probably 4d., which, on an importation of 5000 copies, would give to the owner of the copyright, at the maximum duty of 20l. per cent., the magnificent remuneration of 16l. 13s. 4d., from which his own and the official expenses are to be deducted.

The "benefit" of this disgraceful act has been taken also by the provinces of New Brunswick, Nova Scotia, and Newfoundland, and by Prince Edward's Island, by British Guiana, and by the islands of Barbadoes, Bermuda, the Bahamas, St. Kitts, Antigua, St. Lucia, St. Vincent, Jamaica, Grenada, Nevis, the Mauritius, and the Cape of Good Hope. G. S.

### COPYRIGHT IN DRAMATIC PERFORMANCES.

THE right of the composer of a play to prevent others from performing it must be distinguished from the exclusive right to make and sell copies of the play, which rests on the same footing as copyright in any other literary work. The Court of Chancery has recognised the right of exclusive performance in the assignee of the manuscript of a play which had been represented, but not otherwise published. (*Morris v. Kelly*, 1 J. & W. 481). Soon after this decision, Mr. Murray, as owner of the copyright of Lord Byron's *Marino Faliero*, applied for an injunction to restrain the unauthorised performance of the tragedy in an altered and abridged form; and upon a case sent from Chancery, the Court of Queen's Bench certified that Mr. Murray had no right of action against the manager; but the ground of that opinion does not appear. (*Murray v. Elliston*, 5 B. & Al. 687).

The stat. 3 & 4 Will. 4, c. 15, (which, as modified by the stat. 5 & 6 Vict. c. 45, is still in force), gave to the author of a dramatic work not printed and published, or his assigns, the sole right of representation at any place of dramatic entertainment within the British dominions, and without limit as to time—that is, as it seems, in perpetuity, or until after publication; and to the author of a dramatic work, or his assigns, after publication, the sole right of representation during the term of literary copyright; and it provided, that for every unauthorised representation the offender should be liable to pay to the proprietor not less than 40s., or the full amount of the benefit arising from the representation, or the injury or loss sustained by the plaintiff therefrom, whichever should be greater, with double costs of suit; but that an action should not be brought after a year from the offence.

The benefit given by the act to authors and their assigns, in respect of dramatic works published before the passing of the act, was limited to works published within ten years before the passing of the act; and it was held that the assignee of a play, assigned and published within the ten years before the passing of the act, was entitled to the sole right of representation, as well as to the literary copyright; (*Cumberland v. Planché*, 1 Ad. & El. 580); and it seems to have been considered that an assignment of the copyright, in general terms,

after the passing of the act, would include the right of representation.

But in order to protect managers from the claims of unknown assignees, it has been enacted by the stat. 5 & 6 Vict. c. 45, s. 22, that no assignment of copyright in a dramatic piece, or musical composition, shall pass the right of representation, unless the assignment is registered at Stationers' Hall, and expresses the intention to pass that right.

The statute of Will. 4 has been liberally construed to extend to prohibit the piratical representation of a portion of a dramatic work. The written part of a pantomime is within the protection of the act. (*Lee v. Simpson*, 3 C. B. 871).

It is for the jury to determine whether there has been a representation of a dramatic piece within the act; and the jury having found that the singing of two or three songs in Weber's opera of *Oberon*, in the words contained in the plaintiff's version of that opera, was a representation of part of it within the statute, and having given the lowest damages, (40s.), the Court refused to disturb the verdict. (*Planché v. Braham*, 8 Car. & P. 68; 5 Scott, 242; see *De Pinna v. Polhill*, 8 Car. & P. 78).

The provisions of this act have been extended to musical compositions by the general Copyright Act, 5 & 6 Vict. c. 45, s. 20, which makes the terms of protection co-extensive with that of literary copyright, but seems to have cut down the unlimited right, in works not printed and published, to the like term from the first public performance, for it provides "that the first public representation or performance of any dramatic piece or musical composition shall be deemed equivalent, in the construction of this act, to the first publication of any book." This proviso will probably be limited in construction to the subject-matter of the section in which it occurs—that is to say, the exclusive right of representation.

The literary copyright must still date from the first publication by offering copies for sale\*; and if publication precedes public performance, the term in the right of representation must date from the first publication, as under the statute of William.

In an action for performing a musical composition, of which the plaintiff was the composer, it was objected that the stat. 5 & 6 Vict. c. 45, s. 20, extended only to musical compositions of a dramatic character; but the Court, holding that the piece in question was dramatic, gave no opinion on the objection, which seems to be untenable. (*Russell v. Smith*, 12 Q. B. 217; 12 Jur., part 1, p. 723).

The act of the 5 & 6 Vict. speaks of representation or performance simply—not public representation, or representation at a place of dramatic entertainment. (See *Russell v. Smith*, 15 Sim. 181). But this is not material. If a drama be represented, the place of representation becomes for the time being a place of dramatic entertainment. Thus, the street in which *Punch* is performed is, during the performance, such a place. (*Russell v. Smith*, 12 Q. B. 236).

The act 5 & 6 Vict. c. 45, s. 22, provides that no assignment of the copyright of a dramatic piece or musical composition shall pass the right of performance unless an entry be made in the registry of such assignment, expressing the intention that the right should pass. This is not inconsistent with the proviso at the end of the 24th section, that the requisition in that section, of registration as a condition precedent to suing for infringement, shall not prejudice the remedies of

\* In an action for the penalties under the statute of Anne it was held that the unauthorised performance of a play which the author had printed and published was not an unlawful publication within the meaning of the statute. (*Coleman v. Wathen*, 5 T. R. 245).



the proprietor of the sole liberty of representing any dramatic piece, although no entry be made in the registry. The result is, that the author or composer himself, or his personal representative, may sue without registering; (*Russell v. Smith*, 12 Q. B. 237); but as an assignment of the right of representation can only be made on the register, an assignee must necessarily have registered before he can sue. The clause, however, is imperfectly expressed, for it does not in terms extend to an assignment by writing of the right of representation *alone*.

In cases not within the 18th section of the Literary Copyright Act, 5 & 6 Vict. c. 45, the mere employment for reward of a person to prepare a work does not necessarily imply a contract that the copyright shall belong to the employer. Where a writer was employed by a theatrical manager, at a weekly salary, to visit Paris, and adapt French plays to the English stage, under an unwritten agreement that the manager should have the sole right of representation in London, the adapter retaining the right as to the provinces, it was held that the employer had no legal title, under the stat. 3 & 4 Will. 4, c. 15, to sue a stranger for an unauthorised representation in London. (*Shepherd v. Conquest*, 17 C. B. 427). The Court considered, that as the adapter was unquestionably the author, an assignment in writing was necessary to pass the copyright from him. But where the manager of a theatre, by an unwritten contract, engaged a musical composer to compose music as part of the representation of one of Shakspeare's plays which the manager adapted to the stage, with scenery, dresses, and other accompaniments, according to a general design formed by the manager, on the terms that in consideration of the reward paid by the manager to the composer the music should become part of the piece, and the manager should have the sole right of performing the music as part of the piece, it was held, that, as between the parties, the manager had the sole right of performance, without assignment or covenant in writing from the composer. (*Hatton v. Kean*, 29 L. J., C. P., 20). The decision was based on the ground that the manager was the author and designer of an entire dramatic composition, and the music was composed as a part of, and merely accessory to, the main piece, and so became the property of the manager. This doctrine, however, is not entirely satisfactory.

### Correspondence.

#### ON PATENT LAW REFORM.

TO THE EDITOR OF "THE JURIST."

SIR.—The article in *THE JURIST* of the 28th ult., from the pen of Mr. Grove, Q. C., on improvements in the administration of the patent laws, will be read with much interest by many who have written and laboured in support of similar views.

The impolicy, not to say injustice and absurdity, of granting patents, as of course, to any applicant for any invention, has been often insisted on. The supposed analogy from the principle of free trade, whether in favour of such unrestricted grants, or against all such grants, is fallacious. The grant of letters-patent is the grant of a *right of action*—a power which may be exercised in the most arbitrary manner, and for the most illegitimate purposes. The indiscriminate creation of such rights, at the option of the applicant, appears as little consistent with natural justice as the absolute refusal of such rights, and the denial of property, in the products of intellectual labour. It must also be borne in mind that an invention, in its maturing, in its introduction to the public, and in securing its adoption, is a work of education, requiring the fostering care of the inventor, the capitalist, and the caterer to public taste. It has been well said, a Boulton was as essential

as a Watt to the introduction of the steam-engine. The inventor requires protection against his own ignorance—against the fruitless expenditure of time or money on attempts repeatedly made and abandoned. Hence the promoters of the patent-law reform of 1851, and the bills of that and the succeeding session as passed by the House of Lords, made some preliminary inquiry imperative. The Patent-law Amendment Act, 1852, is framed on this assumption; but the whole was rendered nugatory by an alteration silently introduced in the committee of the House of Commons, leaving such inquiry to the option of the law officer. The commissioners have made no attempt in this respect to carry out the spirit of the statute, and many of the evils of the old system continue, aggravated, indeed, by the increased number of patents.

The Commissioners of Patents and the law officers have the power, without further legislation, of applying a remedy for this aggravated evil.

The trial of patent rights is a vexed question. On disputed questions of fact, involving conflict of testimony as to acts done, a jury may be a useful auxiliary in the investigation of truth; but can anything be more unsatisfactory than the process of instructing the Court through a jury of twelve persons, in a great measure ignorant of the subject on which they are to adjudicate? Let the judge, assisted by *two or four* properly qualified assessors, selected by the parties, or by lot, from a list, approved by the commissioners, of persons conversant with the subject, but not engaged in private professional business connected with patents or inventions, exercise the present functions of the judge and jury. Thus the facts will be found, and any points of law reserved, as at present, for the Court.

In support of the observation of Mr. Grove as to the undue advantage possessed by a plaintiff on the present system, I wish to record the fact, that in no case in my experience has a jury failed to find for the plaintiff on a contested question of infringement simpliciter, so effectually and unconsciously are the minds of the jury moulded by the first and last word, by evidence judiciously selected and applied, and by the prejudice skillfully imported into the case. The effect of this will be more striking when it is remembered, that most inventions are but improvements on existing things.

Assessors to a judge, in addition to or with a jury, would, in my opinion, be an aggravation rather than an alleviation of the evils of the present system; but if the responsibility be thrown on the judge and assessors of finding or ascertaining the facts, the judge or the court would apply the law.

The granting or refusal of patents, the proceedings relating to disclaimers and amendments, the proceedings in an action as to particulars of breaches and objections, and other interlocutory matters, may well be left to law officers and their assessors, or to special commissioners, as contemplated and provided by the Patent-law Amendment Act, 1852. Much may be done to reform and simplify the proceedings in an action by eliminating the immaterial questions; but the ultimate determination of these rights frequently involves questions deserving the consideration of the highest tribunals of the country.

THOMAS WEBSTER.

Temple, Feb. 8, 1860.

The Right Hon. Sir William Erle, Knt., Lord Chief Justice of her Majesty's Court of Common Pleas at Westminster, has appointed the following gentlemen to be Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women:—Frederick Jackson Rhodes, of Alford, Lincolnshire, in and for the parts of Lindsey, in the county of Lincoln; and Henry Tremmenheere Johns, of Ringwood, Hampshire, in and for the county of Hants.



## Court Papers.

## EQUITY CAUSE LISTS, AFTER HILARY TERM, 1880.

\* \* The following abbreviations have been adopted to abridge the space the Cause Papers would otherwise have occupied:—A. Abated—Adj. Adjourned—A. T. After Term—Ap. Appeal—C. D. Cause Day—Cl. Claim—C. Costs—D. Demurrer—E. Exceptions—F. C. Further Consideration—F. D. Further Directions—M. Motion—M. D. Motion for Decree—P. C. Pro Confesso—Pl. Plea—Ptn. Petition—R. Rehearing—S. O. Stand Over—Sh. Short.

## Before the LORD CHANCELLOR and the LORDS JUSTICES.

## APPEALS.

Wylie v. Wylie (W., Jan. 24)  
Wylie v. Enohin (W., Jan. 25)  
Penny v. Clarke (W., Jan. 25)  
Loxley v. Heath (R., Jan. 26)  
Gray v. Falconer (R., Jan. 28)  
Aspinall v. London & North-western Railway Co. (W., Jan. 30)

Head v. Godlee (W., Jan. 31)  
Conybeare v. New Brunswick and Canada Railway and Land Co. (S., Jan. 31)  
Prole v. Soady (S., Feb. 21)

## CAUSES, &amp;c.

Ernest v. Croysdell (M D)  
Rutter v. Marriott (F C).

## Before the Right Hon. the MASTER OF THE ROLLS.

## CAUSES, &amp;c.

James v. Sympson (Cause, part heard)  
Thomas v. Rawlings (Old E to further answer)  
Bennitt v. Whitehouse (E to answer)  
Bowen v. Price (M D) Feb. 9  
Moss v. Gregory (Cause) Feb. 9  
Jones v. Massey (Cause) Feb. 23  
Smith v. Evans (M D) Feb. 11  
Cowell v. Gatcombe (F C) Feb. 9  
Parsons v. Purdue (M D) Feb. 9  
Denny v. Pulman (M D) Feb. 25  
Williams v. Hearne (Cause) Feb. 9  
Drew v. Lockett (M D) Mar. 10  
In re Canney } (F C, adj.  
Canney v. Canney } from ch.)  
M'Leod v. Dowley (M D)  
Harrison v. Harrison (F C)  
In re Roebuck's Estate } (F  
Roebuck v. Allen } C)  
Brown v. Hodgson (F C)  
Bonville v. Bonville (M D) Feb. 29  
Chetham v. Heginbotham (M D)  
Dumelow v. Baker (F C)  
Elton v. Elton } (F C)  
Bayly v. Elton }  
Taylor v. Mellor (M D)  
Official Manager of the Plumstead, Woolwich, & Charlton Consumers Pure Water Co. v. Davis (Cause)  
Evans v. Hughes (M D)  
Roe v. King (M D, Ptn)  
Jeffreys v. Machie (M D)  
Garnett v. Acton (F C, 2 summons to vary certificate)  
White v. Baker (Sp. case)  
Slee v. Benson (F C)  
Pfleger v. Browne (Cause)  
Woodman v. Muskett (F C)  
Clark v. Jeffreys (Cause)  
Musson v. Hackett (F C)

In re Saffery's Estate } (F C)  
Knight v. Saffery }  
Wright v. Pagen (F C)  
Lloyd v. Cocker (Sp. case)  
Neighbour v. Thurlow (M D)  
Thompson v. Corby (F C)  
Humphries v. Brown (M D)  
Scott v. Colburn (F C)  
Kelso v. Kelso (F C)  
Jones v. Biron (F C)  
Edwards v. Stovold (M D)  
Walker v. Evans (Cause, Ptn)  
Brace v. Leftaux (M D)  
Marks v. Woolf (M D)  
Kell v. Horry (M D)  
Parsons v. Beebee (3) (M D)  
Piggott v. Clark (M D)  
Knight v. Baker (M D)  
Bousfield v. Bousfield (M D)  
Holdernest v. Rankin (Cause)  
Phillips v. Normandy (M D)  
Brightwell v. Hart (M D)  
Kirby v. Dukes (M D)  
Tanner v. Balme (F C)  
Elliott v. Webster (M D)  
Harris v. Ross (Cause)  
Ellis v. Cheers (M D)  
Drew v. Cater (M D)  
Patterson v. Rehe (M D)  
Patterson v. Rehe (Cause)  
Greated v. Greated (F C)  
Butler v. Corsan (Cause)  
Pescod v. Pescod (F C)  
Petar v. Sturgis (F C)  
Lucas v. Brandreth (M D)  
Artaria v. Ridgway (M D)  
Maskelyne v. Gordon (M D)  
Hendrie v. Overton (Cause)  
O'Neill v. Luckham (M D)  
Gregg v. Richardson (M D)  
Winter v. Wallis (M D)  
Greene v. Cross (M D)  
Smith v. Everett (F C)  
Toone v. Baker (F C)  
Colley v. Chapman (Cause)  
Chauncey v. Chauncey (F C)  
Thomas v. Thomas (M D)  
Chambers v. Fulham (M D)  
Wilnot v. Warren (M D)  
Barber v. Hill (Cause)  
Holden v. Sanders (Cause)  
Guest v. Guest (M D)

Jones v. Jones (M D)  
Norman v. Johnson (M D)  
Ridgway v. Clare (5) (F C)  
Stephens v. Yelland (M D)  
Kenning v. Hyde (M D)  
Grace v. Grace (F C)  
Hanbury v. Holgate (M D)  
Scales v. Baker (Cause)  
Fenwick v. Gillespie (F C)  
Bull v. Comberbach (F C)  
Nisbet v. Dodge (M D)  
Rundle v. Hickley (M D)  
Fielder v. Laver (M D)  
Smither v. Zetterquist (F C)  
Att.-Gen. v. Thornton (F C)  
Levy v. Simmons (M D)

Wilson v. Brown (Cause)  
Bradbury v. Dickens (F C)  
Davies v. Davies (M D)  
Wearing v. Courtenay (Cl)  
Stagg v. Addis (M D)  
Earl of Tyrone v. Marquis of Waterford (Special case)  
Brown v. Brown (Cl)  
Flood v. Patterson (M D)  
Hargreaves v. Townley (Cau.)  
In re Marryat } (F C,  
Marryat v. Marryat } Sum.)  
Marshall v. Grime (Sp. case)  
Rawlins v. Richards (M D)  
Tugwell v. Scott (F C)  
Lang v. Griffiths (F C).

## Before the Vice-Chancellor Sir RICHARD T. KINDERSLEY.

## CAUSES, &amp;c.

Wason v. Westminster Improvement Commissioners (M D) Feb. 9  
Brooks v. Keith (Cause)  
Bradshaw v. Bradshaw (F C)  
Ward v. Talbot (F C)  
Bell v. Phillips (Cause)  
Eggar v. Terry (M D)  
Eggar v. Terry } Easter T.  
Stansfield v. Terry (M D) }  
Easter T.  
West v. Chard (M D)  
Day v. Day (F C)  
Morton v. Puzey (M D)  
Punt v. Punt (Special case)  
Pancbridge v. Wall (Cause)  
Pemberton v. M'Gill (F C)  
Seymour v. Lucas (F C)  
Bush v. Peterson (F C, Summons to vary certificate)  
Parkinson v. Hanbury (Cau.)  
Jefferson v. Jefferson (F C)  
Ollerenshaw v. Lund (F C)  
Clayton v. Haynes (F C)  
Lee v. Lee (F C)  
Prior v. Unett (M D)  
Sells v. Sells (Cause)  
Ward v. Filmer (Cause)  
Nazer v. Drayson (Cause)  
Ward v. Shakeshaft (Cause)  
Alliston v. Chapple (M D)  
Shuttleworth v. Bristol (Cau.)  
Whitehead v. Bennett (7) (F C)  
Att.-Gen. v. Great Northern Railway Co. (M D)  
Lord Lovat v. Duchess Dowager of Leeds (M D)  
Buck v. Sharp (M D)  
Stephens v. Heathcott (M D)  
Jones v. Gloster (M D)  
Troutbeck v. Boughiey (Cau.)  
Onion v. Platt (M D)  
M'Gill v. Shuter (F C)  
Innes v. Mitchell (Cause)  
Lawrence v. Pennington (M D)  
Smedley v. Potter } (F C)  
Shilton v. Potter }  
John v. John (M D)  
In re New Brunswick and Canada Railway and Land Co. v. Mugeridge (Cause)

Swettenham v. Richardson (Cause)  
In re Wiltshire's Estate } (F  
Wiltshire v. Little } C)  
Shaw v. Johnson (Cause)  
Oringe v. Pickford (F C, Summons)  
Faulkner v. Phipps (Cl)  
Hill v. Hill (Special case)  
Lee v. Rennard (F C)  
Willoughby v. Wilkinson (M D)  
Webster v. Le Hunt (Cause)  
Le Hunt v. Webster (Cause)  
Grimsby v. Webster (Cause)  
Fry v. Dadswell } (F  
Mackelov v. Dadswell } C)  
Howard v. Robinson (M D)  
Stapleton v. Stapleton (F C)  
Forest v. Newby (Cause)  
Jones v. Dale } (Cause)  
Levers v. Dale }  
Levers v. Dale (M D)  
Wright v. Salmon (Cause)  
Debenham v. Kightley (M D)  
Smith v. Domville (M D)  
Curling v. Austin (Cl)  
Hughes v. Chester and Holyhead Railway Co. (M D)  
In re Smith } (F  
S. J. Smith v. F. Smith } C)  
Austin v. Curling (Cl)  
Ricketts v. Martin (M D)  
Arnold v. Chaplin (F C)  
Baggott v. Blackham (Cl)  
Hadland v. Bathe (F C)  
Milbank v. Lambert (M D)  
Gimson v. Downing (F C)  
Munger v. Moores (F C)  
Gibbs v. Woodroof (F C)  
Lord v. Wightwick (F C)  
Watlington v. Pridaux (F C, Summons)  
Thomas v. Jones } (F C)  
Silverster v. Thomas }  
Brown v. Savage (F C)  
Shaw v. Shaw (F C)  
Hyde v. Hyde (M D)  
Liddard v. Liddard (M D)  
Guillon v. Rotch } (F C, Sum-  
Rotch v. Guillon } mons)  
Thomas v. Thomas (Cl)  
Angell v. Hayes (M D).

## Before the Vice-Chancellor Sir JOHN STUART.

## CAUSES, &amp;c.

Hill v. Fackrell (M D) A  
Fleming v. Fleming (M D)  
A. Sh  
Adams v. Williams (M D)

Griffiths v. Cowper (Cause)  
March 1  
Woolnough v. Gregson (M D)  
Feb. 15

Johnson v. Weston (M D)  
Eversfield v. Clark (M D)  
*Easter T.*  
Bridley v. Simpson (M D) *S O*  
Sparkman v. Holbrook (F C)  
*Easter T.*  
Furber v. Meakin (M D, Summons)  
Elwes v. Cook (M D)  
Case v. Case (M D) *Easter T.*  
Harrison v. Wardell (M D)  
Perry v. Holl (Cause)  
Perry v. Parkinson (Cause)  
Morrall v. Butterfield (F C)  
Mathews v. Chichester (Cau.)  
Reeve v. Coyde (M D) *Mar. 6*  
Barne v. Barne (M D)  
Williams v. Skottowe (M D)  
*S O*  
Sayce v. Kirkwood (Cause)  
*Feb. 14*  
Burnett v. Burnett (F C)  
*Trinity T.*  
Kennard v. Putvoys (M D, part heard)  
Smith v. Clark (M D)  
May v. May (M D)  
Graham v. Forster (Cause)  
Grant v. Butler (Cause)  
In re Brett's Estate } (F C)  
Reynolds v. Lewis } *Feb. 10*  
Reid v. Stearn (Cause)  
Harrison v. Mayor of Southampton (F C)  
Jenkins v. Jones (Cause)  
Wrigglesworth v. Fisher (M D)  
Jacobs v. Shirreff (F C)  
Scott v. Fisher, jun. (Cause)  
Newsome v. Costaker (M D)  
Wheelwright v. Coe (Cause)  
Garaden v. Dugdale (M D)  
Radley v. Ingram (M D)  
Dodd v. Dodd (M D)  
Giles v. Hart (M D)

Jacobs v. Joseph (F D, C)  
Chadwick v. Westman (F C)  
Weller v. Lovell (M D)  
Davies v. Anthony (M D)  
Law v. Hargreaves (M D)  
Howard v. Wheatley (F C)  
Brereton v. Brereton (M D)  
Holt v. Bailey (F C)  
Cook v. Green (M D)  
Mellor v. Woodward (M D)  
Blackmore v. Blackmore (F C)  
Blamire v. Blamire (F C)  
Holman v. Jewell (M D)  
De Doff v. Derbyshire, Staffordshire, and Worcester-shire Junction Railway Co. (F C)  
Kenion v. Kenion (F C)  
Clinch v. Shuffrey (Cause)  
Atherton v. Atherton (Cause)  
Massey v. Massey (F C)  
In re Sims' Estate } (F C)  
Middle v. Sims }  
James v. Mitchell (M D)  
Whitaker v. Houghton (M D)  
Jenner v. Jenner (Cause)  
Cooper v. Elworthy (Cause, part heard)  
Dilkes v. Broadmead (Cause)  
Barham v. Scott (Cause)  
Wells v. Polley (M D)  
Kreckeller v. Pearson (F C)  
Turner v. Cason (Cause)  
Trim v. Knight (M D)  
Sebright v. Hastings (Sp. case)  
Parry v. Hughes (M D)  
Ogilvie v. Jeaffreson (M D)  
Garland v. Kiernan (M D)  
Figgess v. Figgess (M D)  
Moseley v. Andrews (M D)  
Poole v. Poole (F C)  
Hipkins v. Amery (Cause)  
Johnson v. Smart (M D)  
Hickman v. Upsall (Cause).

West End of London & Clapham & Norwood Junction Railway Co. v. Bridges (M D)  
Webster v. Bridgwater (F C)  
Parker v. Phillips (F C)  
Brown v. Jarvis (F C)  
Wilson v. Raynor (M D)  
Richards v. Richards (F C)  
Churchill v. Clonbrock (F C)  
Standen v. Packer (M D)  
Jackson v. Mallaby (M D)  
Grant v. Mussett (M D)  
Shaw v. Postlethwaite (Cause)  
Walker v. Walker (F C)  
Gover v. Hobbs (M D)  
Namur and Liege Railway Co. v. Ponsford (F C, M)  
Taylor v. Yates (Cause)  
Nash v. Allen (F C, Summons to vary certificate)  
Webster v. Dean (Cause)  
Jaques v. Jaques (M D)  
Knapp v. Burnaby (Cause)  
Dudley and West Bromwich Banking Co. v. Spittle (Ca.)  
Hare v. London and North-western Railway Co. (Cau.)  
Blake v. Shaw (Cause)  
Hall v. Wilson (M D)  
Pope v. Lakey (Cause)  
Blake v. Holford (F C)  
Williams v. Jackson } (M D)  
Williams v. Perry }  
Baty v. Chapman (M D)  
Fairbridge v. Bradley (M D)  
Cross v. Bridge (M D)  
French v. Bond (Cause)  
Billing v. Phillips (Cause)  
Stone v. Child (Cause)  
Suffell v. Thompson (F C)  
Pardoe v. Hopkins (F C)  
Huntley v. Hawkins (M D)  
In re Archbold's Estate } (F C)  
Pears v. Bownes }  
Galger v. Malkin (F C)  
Hadley v. Smith (Cause)  
Ward v. Day (M D)  
Pinder v. Pinder (M D)  
Goldamid v. Haswell (M D)  
Chittenden v. Lawford (F C)  
Stroud v. Gwyer (M D)  
Kynnersley v. Sneyd (M D)  
Broad v. Vincent (Cause)  
Bidwell v. Walters (M D)  
Charlton v. Newcastle-on-Tyne and Carlisle Railway Co. (M D)

Cow v. Foster (Sp. case)  
Cook v. Humphrey (M D)  
Maud v. Maud (M D)  
Adamson v. Birkenhead Docks (F C)  
Johnson v. Johnson (M D)  
Piper v. Piper (Special case)  
Collins v. France (M D)  
Fullbrook v. Ilbrey (M D)  
Seymour v. Hutley (M D)  
Harcourt v. White (Cause)  
Gibson v. Shaw (M D)  
Brown v. Harte (Cause)  
Kennedy v. Kelly (M D)  
Bligh v. Davies (M D)  
Wells v. Wood (F C)  
Wallis v. Haynes (M D)  
Pee v. Round (M D)  
Besley v. Perratt (F C)  
Andrews v. Taylor (F C)  
Dadson v. Bishop (M D)  
Pee v. Pee (F C)  
Osborn v. Gutteridge (M D)  
Blicks v. Scrivens (Cause)  
In re Parmiter's Estate } (F C, Summons)  
Parmiter v. Parmiter }  
Parmiter v. Parmiter (Cause)  
Reeve v. Minott (M D)  
Hunter v. Abram (M D)  
Pembroke v. Friend (F C)  
Hudson v. Blake (M D) *Sh*  
Elmalie v. Hollingsworth (Cause)  
Ransford v. Griffiths (Cause)  
Appleyard v. Monro (F C)  
Laird v. Birkenhead Railway Co. (M D)  
Corpe v. Stratford (Cause)  
Lewin v. Allen (M D)  
Ray v. Lippcomb (M D)  
Liverpool Borough Bank v. Turner (M D)  
Thayer v. Lister (Cause)  
Hopkinson v. Jackson (Cause)  
Welchman v. Coventry Union Banking Co. (M D)  
Wilson v. Whateley (Cause)  
Swainson v. Dobson (F C)  
Catt v. Ross (M D)  
Barns v. Richmond (F C)  
Cleave v. Hilhouse (M D)  
Moffat v. Money (Cause)  
Gover v. Mathews (M D)  
Hodder v. Tarte (Cause)  
Spencer v. Locke (F C, Summons)  
Watkins v. Smith (Cause).

*Before the Vice-Chancellor Sir W. P. Wood.*

CAUSES, &c.

Hunt v. Peake (M D, part heard)  
Transatlantic Co. v. Pietroni (D)  
Lee v. May (F C)  
Harford v. Knollys (M D)  
Southcomb v. Hamilton (M D)  
Melton v. Day (Cause)  
Bascott v. Tugwell (F C)  
Morrison v. Beckford (F C)  
Lackersteen v. Lackersteen (M D)  
Joel v. Mills } (F C) *Feb.*  
Hervey v. Mills } 9  
Walker v. Kidger (Cause)  
*May 2*  
Lorkin v. London and North-western Railway Co. (M D)  
*Feb. 9*  
Harrington v. Churchward (Cause) *Feb. 9*  
Walters v. Morgan (M D)  
*Feb. 9*  
De Chatelain v. De } (F C, Pontigny } Sup. Ca.,  
De Chatelain v. De } part hd.,  
Pontigny } *Feb. 9*  
Earl of Shrewsbury v. Trappes (Cause) *Feb. 12*  
Betta v. Cooper (Cause, part heard) *Easter T.*

Whalley v. Ramage (Cause)  
*March 9*  
Burch v. Bright } (M D)  
Bright v. Burch } *March 1*  
Manning v. Petherick (Cau.)  
Rumball v. George (F C)  
*Easter T.*  
Wooldridge v. Wooldridge (M D)  
Godwin v. Cavendish (F C)  
Eiloart v. Dugdale (M D)  
Dewsbury v. Shone (M D)  
Colthurst v. Codrington (Ca.)  
Long v. Dawson (M D)  
Firth v. Longbottom (M D)  
Kyd v. Batchelor (Sp. case)  
Ekins v. Morris (F C, Sum.)  
Rusby v. Carter (Cause)  
Abbott v. Blair (F C, M)  
Roebuck v. Knipe (Sp. case)  
Pilcher v. Rundall (M D)  
Ewing v. Liverpool Borough Bank (M D)  
Smith v. Lomas (Cause)  
Hughes v. Jones } (F C)  
Roberts v. Jones }  
Pares v. Burnaby (F C)  
Dickens v. Unthank (F C)  
Milburn v. Gregory (M D)  
Gibbons v. Hopper (F C)  
Milburn v. Gregory (Cause)  
Cooper v. Cartwright (M D)

COURT OF QUEEN'S BENCH.—*Feb. 8, 1860.*

THE Court will proceed on the 13th, 14th, 15th, 16th, 17th, and 18th inst. with the Country New Trials, including the one moved in Hilary Term, so long as any remain undisposed of, after which the Special Paper will be taken. The Crown Paper will not be taken during the sittings.

NEW TRIALS GRANTED IN HILARY TERM.

Midd.—Harwood v. Great Northern Railway Co.	Midd.—Margetson v. Atkins
" Bickford v. Royal Mail Steam-packet Co.	Lond.—Coggan v. Levy
" Elwes v. Christophers	" Lowenthal v. Requejo
Doulton v. Stiff	Liverp.—Krecher v. Gorst
Lond.—Zwildenbart v. Alexander	<i>Tried during Term.</i>
" Simpson v. Young	Midd.—Joyce v. Joyce
	" Johnson v. Tyrrell
	" Lavigne v. Smith
	Lond.—Long v. Hales.

## BILL IN PROGRESS.

## LAW OF PROPERTY AMENDMENT BILL.

(LORD CHANCELLOR).

Sect. 1. That no judgment, statute, or recognisance shall affect any land, (of whatever tenure), as to a bonâ fide purchaser for valuable consideration, or a mortgagee, (whether such purchaser or mortgagee have notice or not of any such judgment, statute, or recognisance), unless a writ, or other due process of execution of such judgment, statute, or recognisance, shall have been issued and registered, as hereinafter is mentioned, before the execution of the conveyance or mortgage to him, and the payment of the purchase or mortgage money by him; but as to judgments, statutes, or recognisances already entered up, the same shall be binding on purchasers and mortgagees as far as by law they were binding on them before the passing of this act, if any writ of execution or other process issued thereon at any time before the 1st November, 1860, be registered as hereinafter mentioned on or before that day: provided always, that no judgment, statute, or recognisance, nor any writ of execution or other process thereon, shall affect any land, of whatever tenure, as to a bonâ fide purchaser or mortgagee, although execution or other process shall have issued thereon, and have been duly registered, unless such execution or other process shall be executed and put in force within nine calendar months from the time when it was registered.

2. The registry hereinafter required of any writ of execution, or other due process on any judgment, statute, or recognisance, in order to bind a purchaser or mortgagee, shall be made by a memorandum or minute referring to the judgment, statute, or recognisance already registered, so as to connect the registry of the writ of execution or other process therewith; and such memorandum or minute to be left with the senior Master of the Court of Common Pleas at Westminster, who shall forthwith enter the particulars in a book, in alphabetical order, by the name of the person in whose behalf the judgment, statute, or recognisance upon which the writ of execution or other process issued was registered, and also the year and the day of the month when every such memorandum or minute is left with him, and such officer shall be entitled for any such registry to the sum of 5s.; and all persons shall be at liberty to search the same book, in addition to all the other books in the same office, on payment of the sum of 1s. only: and all the provisions in this act in regard to writs of execution or other process, and the registry thereof, or otherwise relating thereto, shall extend, mutatis mutandis, to writs of execution or other due process issuing on judgments of the several Courts of Common Pleas of the County Palatine of Lancaster, and of Pleas of the County Palatine of Durham: but none of these provisions are to extend to Ireland.

3. And whereas, by an act passed in the 4 & 5 Will. & M., intituled "An Act for the better Discovery of Judgments in the Courts of King's Bench, Common Pleas, and Exchequer, in Westminster," it was enacted, that no judgment not docketed and entered in books in the manner thereby provided should affect any lands or tenements, as to purchasers or mortgagees, or have any preference against heirs, executors, or administrators, in their administration of their ancestors', testators', or intestates' estates: and whereas, by several later acts, judgments are required to be registered with more particulars than were required by the said recited act; and it is thereby enacted, that judgments not so registered shall not affect any lands, tenements, or hereditaments, as to purchasers, mortgagees, or creditors, unless and until the same shall be registered in manner thereby required; and in obedience to a direction in one of the same acts contained the dockets existing under the said first-recited act have been finally closed: and whereas the said several later acts do not expressly enact that judgments not docketed as thereby required shall not have any preference against heirs, executors, or administrators, in their administration of their ancestors', testators', or intestates' estates, in consequence whereof such heirs, executors, or administrators have been held to have lost the protection which they enjoyed under the said first-recited act, and it is expedient that the same should be restored: be it therefore declared and enacted, that no judgment which has not already been, or which shall not here-

after be, entered or docketed under the several acts now in force, and which passed subsequently to the said act of the 4 & 5 Will. & M., so as to bind lands, tenements, or hereditaments as against purchasers, mortgagees, or creditors, shall have any preference against heirs, executors, or administrators, in their administration of their ancestors', testators', or intestates' estates.

4. No judgments which, since the passing of an act of the 1 & 2 Vict., intituled "An Act for abolishing Arrest on Mesne Process and Civil Actions except in certain Cases, for extending the Remedies of Creditors against the Property of Debtors, and for amending the Law for the Relief of Insolvent Debtors," (being one of the acts hereinbefore referred to), have been registered under the provisions therein contained, or contained in the later act of the 2 & 3 Vict. c. 11, as explained and amended by the act of the session of the 18 & 19 Vict. c. 15, (being two other of the acts hereinbefore referred to), or which shall hereafter be so registered, shall have any preference against heirs, executors, or administrators, in their administration of their executors', testators', or intestates' estates, unless at the death of the testator or intestate five years shall not have elapsed from the date of the entry thereof on the docket, or from the only or last re-registry thereof, as the case may be, which re-registry from time to time is hereby authorised to be made in manner directed by the said act of the 2 & 3 Vict., as explained and amended by the act of the 18 & 19 Vict.; but it shall be deemed sufficient to secure such preference as aforesaid if such a memorandum as was required in the first instance is again left with the senior Master of the Common Pleas within five years before the death of the testator or intestate, although more than five years shall have expired by effluxion of time since the last previous registration, before such last-mentioned memorandum or minute was left; and so toties quoties upon every re-registry.

5. In the construction of the previous provisions the term "judgment" shall be taken to include registered decrees, orders of courts of equity and bankruptcy, and other orders having the operation of a judgment.

6. No purchaser for valuable consideration, or mortgagee, shall be bound by any implied or constructive notice of any charge, or of any other act, matter, or thing affecting the title to the property purchased or taken in mortgage, unless the court shall be of opinion that the conduct of such purchaser or mortgagee amounted to fraud.

7. Where any actual waiver of the benefit of any covenant or condition in any lease, on the part of any lessor, or his heirs, executors, administrators, or assigns, shall be proved to have taken place after the passing of this act in any one particular instance, such actual waiver shall not, unless a contrary intention appear, be assumed or deemed to extend to any instance or any breach of covenant or condition other than that to which such waiver shall specially relate, nor to be a general waiver of the benefit of any such covenant or condition.

8. Where by any instrument any hereditaments have been or shall be limited to uses, all uses thereunder, whether expressed or implied by law, and whether immediate or future, or contingent or executory, or to be declared under any power therein contained, shall take effect when and as they arise by force of, and by relation to, the estate and seisin originally vested in the person seised to the uses, and the continued existence in him or elsewhere of any seisin to uses or scintilla juris shall not be deemed necessary for the support of, or to give effect to, future or contingent or executory uses, nor shall any such seisin to uses or scintilla juris be deemed to be suspended, or to remain or to subsist in him or elsewhere.

9. The 24th section of the 22 & 23 Vict. c. 35, shall be read and construed as if the words "or mortgagee" had followed the word "purchaser" in every place where the latter word is introduced in the said section.

10. In taxing the costs of preparing abstracts of title, where unnecessary length is complained of, the Taxing Master shall not treat the 24th section of the 22 & 23 Vict. c. 35, as authorising or requiring any information in regard to title which would not have been justified by the practice of solicitors acting bonâ fide before the passing of the said act, the provision of the said section having been directed against fraud only.

11. Where any trustee, executor, or administrator shall

apply for the opinion, advice, or direction of a judge of the Court of Chancery under the 30th section of the 22 & 23 Vict. c. 35, the petition or statement shall state the facts concisely, and shall be divided into paragraphs, and every paragraph shall be numbered consecutively, and such petition or statement shall be signed by counsel, and the judge by whom it is to be answered may require the petitioner or applicant to attend him by counsel, either in chambers or in court, where he deems it necessary to have the assistance of counsel.

12. Sect. 32 of the 22 & 23 Vict. c. 35, is hereby repealed.

13. This act is not to extend to Scotland.

The Queen has been pleased to appoint William Henry Adams, Esq., Attorney-General, to be a member of the Legislative Council of the island of Hong Kong; also Frederick William Green, Esq., to be a member of the Legislative Council of the said island of Hong Kong whilst executing the duties of Attorney-General of that island.

**CHANCERY EASTER VACATION ORDER.**—By the first article of the 8th of the General Orders of the High Court of Chancery of the 8th May, 1845, it is provided that the Easter Vacation is to commence and terminate on such days as the Lord Chancellor shall direct. It is ordered that the Easter Vacation shall commence on Saturday, the 31st March next, and terminate on Tuesday, the 10th April next, both days inclusive.

**COMMISSIONERS TO ADMINISTER OATHS IN CHANCERY.**—The Lord Chancellor has appointed the following gentlemen to be Commissioners for administering oaths in the High Court of Chancery in England:—Anthony Clark Branson, of Sheffield, Yorkshire; and Thomas Jones, of Llandovery, Carmarthenshire.

**COMMISSIONERS TO ADMINISTER OATHS IN COMMON LAW.**—The following gentlemen have been appointed London Commissioners for administering oaths in courts of common law:—*Queen's Bench*: George Capes, of No. 1, Field-court, Gray's-inn; James Gole, of No. 49, Lime-street, Leadenhall-street, City; and George Lewis Phipps Eyre, of No. 1, John-street, Bedford-row.—*Common Pleas*: George Capes, of No. 1, Field-court, Gray's-inn; James Gole, of No. 49, Lime-street, Leadenhall-street, City; and George Lewis Phipps Eyre, of No. 1, John-street, Bedford-row.—*Exchequer*: George Capes, of No. 1, Field-court, Gray's-inn; James Gole, of No. 49, Lime-street, Leadenhall-street, City; George Lewis Phipps Eyre, of No. 1, John-street, Bedford-row; and John Loxley, of No. 80, Cheapside.

**JAPHETH BARTON**, Landport, Portsea, Southampton, brewer, Feb. 17 at 12, and March 23 at 11, London: Off. Ass. Cannan; Sols. Cousins, jun., Portsea; Sole & Co., 68, Aldermanbury.—Pet. f. Jan. 30.

**GEORGE GYNNE**, Wardour-st., Soho, Middlesex, cabinet maker, Feb. 16 at 11, and March 15 at 2, London: Off. Ass. Bell; Sols. Harrison & Lewis, 6, Old Jewry.—Pet. f. Feb. 6.

**GEORGE NINER**, Union-street, Spitalfields, Middlesex, wholesale clothier, Feb. 20 at half-past 1, and March 26 at 1, London: Off. Ass. Pennell; Sol. De Medina, 28, Broad-street-buildings, London.—Pet. f. Feb. 6.

**WILLIAM MYNN**, Queen's-head-yard, Southwark, Surrey, manure merchant, Feb. 20 and March 26 at 11, London: Off. Ass. Pennell; Sol. Tarrant, 2, Bond-court, Walbrook, London.—Pet. f. Feb. 6.

**ISAAC HAWKER BEDFORD** and **HENRY LIGHTON**, Birmingham, cut glass manufacturers, Feb. 20 and March 12 at 11, Birmingham: Off. Ass. Whitmore; Sols. Beale & Marigold, and Reece, Birmingham.—Pet. d. Feb. 4.

**EDWARD ELLIOTT**, Sandgate, Quay-walls, Berwick-upon-Tweed, quarryman, Feb. 16 and March 15 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Sanderson, Berwick-upon-Tweed; Griffith & Crighton, Newcastle-upon-Tyne.—Pet. f. Jan. 26.

**RICHARD NASH**, Wolverhampton, Staffordshire, inn-keeper, Feb. 17 and March 16 at 11, Birmingham: Off. Ass. Kinnear; Sols. Pinchard & Shelton, Wolverhampton; Hodgson & Allen, Birmingham.—Pet. d. Feb. 6.

**DAVID HALSTEAD**, Manchester, worsted dyer, Feb. 21 and March 20 at 12, Manchester: Off. Ass. Fraser; Sols. Taylor & Fox, Manchester.—Pet. f. Feb. 2.

#### MEETINGS.

*William Joyce*, Greenwich, Kent, engineer, March 1 at 12, London, pr. d.—*Frederick Wm. Thomas*, Water-lane, Great Tower-street, commission agent, Feb. 18 at 12, London, last ex.; Feb. 29 at half-past 1, div.—*Wm. Neck Peckins*, Torquay, Devonshire, auctioneer, March 5 at 12, Exeter, last ex.—*Jas. Price*, Maidenhead, Berkshire, stonemason, Feb. 18 at 11, London, aud. ac.—*Thomas Litchfield*, Twickenham, Middlesex, surgeon, Feb. 18 at half-past 12, London, aud. ac.—*Edward Harris*, Folkestone, Kent, tailor, Feb. 18 at half-past 11, London, aud. ac.—*Henry Degetan*, Manchester, merchant, Feb. 24 at 12, Manchester, aud. ac.; March 2 at 12, div.—*James Bromage Williams*, Bristol, wine merchant, March 1 at 11, Bristol, aud. ac.—*Henry Bradley*, Kingston-upon-Hull, corn dealer, Feb. 29 at 12, Kingston-upon-Hull, aud. ac. and div.—*Wilson Borrell*, Old Malton, Yorkshire, miller, Feb. 29 at 12, Kingston-upon-Hull, aud. ac. and div.—*Octavius King* and *Alfred King*, Dullingham, near Newmarket, Cambridgeshire, corn merchants, March 1 at half-past 11, London, div.—*Henry William Atkinson* and *Thomas William King*, Sutherland-gardens, Maida-vale, Paddington, Middlesex, builders, March 1 at 11, London, div.—*John Andrews Mundy*, Pulborough, Sussex, coal merchant, Feb. 29 at 1, London, div.—*Wm. Medley* and *Arthur Ouwry Medley*, Aylesbury, Buckinghamshire; Uxbridge, Middlesex; and Windsor, Berkshire, bankers, Feb. 29 at 1, London, fin. div.—*Thos. Gurney* and *John Jacobs*, Dover-place West, Dover-road, and Mount-place, Walworth-road, Surrey, tailors, Feb. 29 at 2, London, fin. div.—*John Cartwright*, Dunston, Lincolnshire, corn merchant, March 15 at half-past 10, Nottingham, aud. ac. and div.—*John Lambert*, Nottingham, tailor, March 1 at 11, Nottingham, (and not Birmingham, as before advertised), div.—*Geo. Rose Bircher*, Burton-upon-Trent, Staffordshire, innkeeper, March 1 at 11, Birmingham, div.—*Robt. Jukes Stirrop*, Ironbridge, Shropshire, currier, March 2 at 11, Birmingham, div.—*Peter Foran*, Birmingham, grocer, March 2 at 11, Birmingham, div.—*Henry J. Groves*, Newport, Monmouthshire, music-seller, March 8 at 11, Bristol, div.—*William Hall*, Durham, grocer, Feb. 28 at 12, Newcastle-upon-Tyne, fin. div.—*Geo. Parker*, Kingston-upon-Hull, copper merchant, Feb. 29 at 12, Kingston-upon-Hull, div.

#### CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*Robert Walton Feast* and *Henry Feast*, Victoria-road, Lower-road, Islington, Middlesex, export oilmen, Feb. 28 at 2, London.—*James Shaw* and *David Shaw*, John-street, Cambridge-heath, Middlesex, boiler makers, Feb. 29 at 11, London.—*John Simmons Morris* and *James Brooks*, Earl-street, Blackfriars, City, stove-grate manufacturers, Feb. 29 at half-past 11, London.—*James Bromage Williams*, Bristol, wine merchant, March 5 at 11, Bristol.—*Edmund Snook*, Bath, Somersetshire, pork butcher, March 6 at 11, Bristol.—*Elijah Pinkess*, Liverpool, oil and colour man, Feb. 27 at 11, Liverpool.

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## MEETINGS.

*John Jeyes*, Northampton, nurseryman, Feb. 21 at 1, London, last ex.—*John Thos. Wright*, Hove, Brighton, Sussex, upholsterer, Feb. 22 at 1, London, aud. ac.—*Ernest Charles Jones*, Cambridge-place, Victoria-road, Kensington, Middlesex, printer, Feb. 23 at 11, London, aud. ac.—*John Allen*, Broadway, Deptford, Kent, and Grey Eagle-street, Spital-fields, Middlesex, boot manufacturers, Feb. 20 at half-past 11, London, aud. ac.—*Thomas Pierson*, Pickering, Yorkshire, money scrivener, Feb. 22 at 11, London, aud. ac.—*Thomas Ward*, Great Winchester-street, London, and Park-street, Camden-town, Middlesex, commission agent, Feb. 20 at 11, London, aud. ac.—*James Heather*, Walton-road, East Moulsey, Surrey, builder, Feb. 28 at 12, London, aud. ac.—*Robt. W. Feast* and *Henry Feast*, Earl-street and Clifton-street, Finsbury, Middlesex, export oilmen, Feb. 29 at 2, London, aud. ac.—*Robert J. Brown*, Sunderland, Durham, timber merchant, Feb. 21 at 12, Newcastle-upon-Tyne, aud. ac.—*Isaac Riley*, Burslem, Staffordshire, joiner, March 16 at 11, Birmingham, aud. ac.—*Edwin Sunderland* and *Wm. Sunderland*, Oldbury, Worcestershire, bill brokers, March 16 at 11, Birmingham, aud. ac.—*John Aston*, Birmingham, maltster, Feb. 23 at 11, Birmingham, aud. ac.—*John Hughes* and *Thomas D. Steel*, Newport, Monmouthshire, engineers, March 8 at 11, Bristol, aud. ac.—*Thomas Motley*, *Isaac Hardy*, and *Wm. Heard*, Bristol, ironmongers, March 2 at 11, Bristol, aud. ac. sep. est. of *Wm. Heard*.—*John Hawken* the younger, Padstow, Cornwall, merchant, Feb. 22 at 12, Exeter, aud. ac.; March 5 at 12, div.—*Esther L. Mayne*, Exeter, milliner, Feb. 22 at 12, Exeter, aud. ac.; March 5 at 12, div.—*Samuel Atack*, Leeds, Yorkshire, builder, Feb. 23 at 11, Leeds, aud. ac.—*George Parker*, Kingston-upon-Hull, copper merchant, Feb. 29 at 12, Kingston-upon-Hull, aud. ac.—*William Trigg*, Witley, near Godalming, Surrey, tim-

ber merchant, March 2 at 12, London, div.—*Bennett Barnett*, Burlington-gardens, Bond-street, Middlesex, dealer in pictures, March 1 at 1, London, div.—*Henry Niz*, Werrington, Northamptonshire, miller, March 8 at 11, London, div.—*Robert Harman*, Littlewick, White Waltham, Berkshire, corn dealer, March 2 at half-past 11, London, div.—*John Gardner*, Northampton, builder, March 2 at 1, London, div.—*Edward B. Collins*, Hereford-place, Queen's-road, New Peckham, Surrey, and Charlton, Kent, market gardener, March 5 at half-past 12, London, div.—*Wm. Smith*, Tabernacle-row, Finsbury, Middlesex, carpenter, March 3 at 12, London, div.—*George Ellis*, South Brent, Devonshire, miller, March 5 at 12, Exeter, div.—*Lucius T. Sabine*, Weymouth, Dorsetshire, ironmonger, March 5 at 12, Exeter, div.

## CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*George K. Jackson*, Elizabeth-street South, Pimlico, Middlesex, grocer, March 3 at 1, London.—*George Eliott*, Bradford, Yorkshire, draper, March 5 at 11, Leeds.—*Charles Willmer*, Liverpool, newspaper proprietor, March 5 at 12, Liverpool.

*To be granted, unless an Appeal be duly entered.*

*William Henry Barnes*, Hawthorn-street, King's-road, Ball's-pond, and Spencer-terrace, Spencer-road, Stoke Newington, Middlesex, builder.—*John R. Fitch*, Hatton-garden, Middlesex, jeweller.—*Wm. Layton*, Portsea, Hampshire, shoemaker.—*Henry Johnson*, Spencer-road, Stoke Newington, and St. James's-walk, Clerkenwell-green, Middlesex, house decorator.—*Charles H. Baker* and *Joseph Aguilar*, Water-lane, Great Tower-street, City, and Duke-street, Adelphi, Middlesex, soap manufacturers.—*Henry Grant*, Cardiff, Glamorganshire, ship chandler.—*Matthew Dickins*, *William Dickins*, and *Saml. Dickins*, Liverpool, woollen drapers.—*John Hooke*, Berham Mills, near Wrexham, Denbighshire, paper manufacturer.

## PETITION ANNULLED.

*Edward Palmer*, Hertford, maltster.

## PARTNERSHIPS DISSOLVED.

*N. Martin* and *J. Conworth*, Queenhithe, City, attorneys and solicitors.—*Henry Kinneir* and *John Wm. Browne*, Swindon, Wiltshire, attorneys-at-law, solicitors, and conveyancers, (under the firm of Kinneir & Browne).—*I. Wrenmore* and *I. H. Wrenmore*, Lincoln's-inn-fields, and Great Cheyne-row, Chelsea, Middlesex, attorneys-at-law and solicitors, (under the style or firm of Wrenmore & Son).

## SCOTCH SEQUESTRATIONS.

*Wm. Darby*, Glasgow, dealer in horses.—*Joseph Reid*, deceased, Mains of Cults, Banchohy-Devenick, Aberdeenshire, farmer.—*George A. M'Gregor & Co.*, Glasgow, confectioners.—*Daniel Mathieson*, Glasgow, stone merchant.

## TUESDAY, Feb. 14.

## BANKRUPTS.

**ELLEN SUSANNAH WEST**, Bingham-place, New North-road, Hoxton, Middlesex, lodging-house keeper, Feb. 23 at 12, and March 22 at 1, London: Off. Ass. Johnson; Sol. Wells, Moorgate-street.—Pet. f. Feb. 11.

**THOMAS STREETER**, Portsmouth, Hampshire, hotel keeper, Feb. 23 at half-past 11, and March 23 at 2, London: Off. Ass. Johnson; Sols. Dimmock & Burbey, Suffolk-lane, Cannon-street.—Pet. f. Feb. 14.

**JOEL DURHAM**, Wingland, near Sutton-bridge, Norfolk, railway contractor, Feb. 29 at half-past 1, and March 28 at 1, London: Off. Ass. Stansfeld; Sols. Marcon, Swaffham, and Swatman, King's Lynn, Norfolk; Plimsaul, 7, South-square, Gray's-inn, London.—Pet. f. Feb. 10.

**HENRY QUARTERMAN**, Oxford, builder, Feb. 29 at half-past 12, and March 28 at 12, London: Off. Ass. Graham; Sols. Hurford & Taylor, 5, Farnival's-inn, London.—Pet. f. Feb. 10.

**JOHN JONES**, Lambeth-square, Surrey, mantle manufacturer, Feb. 27 at 1, and April 2 at 12, London: Off. Ass. Peanell; Sols. Peek & Downing, 19, Basinghall-street.—Pet. f. Feb. 11.

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## THE JURIST.

LONDON, FEBRUARY 18, 1860.

To perform the last offices for the dead, and to carry out the wishes expressed by a deceased friend in his lifetime with regard to the disposition of his property, are amongst the most sacred acts of friendship. It should be the policy of a considerate law to render the position of an executor as little onerous, embarrassing, and open to litigation as possible, consistently with the reasonable precautions which it must necessarily take to protect the interests of claimants against the estate or under the will of the deceased, and with the guards against fraud which it raises up by those statutes, which attach many solemnities to the valid expression of such wishes. Untouched, however, by legislation of this nature is the *donatio mortis causa*; and amongst the difficult questions that arise to perplex an executor is the claim of a *donee mortis causa*. An executor treads on sufficiently dangerous ground when he has to decide upon the facts, whether the circumstances incidental to a valid gift of this nature have happened or not; but by careful consideration, and the application of common sense, he may satisfy himself whether there has been a sufficient delivery to the donee by the donor in his last illness, subject to revocation if he recover; but the foundation of his decision

must be a matter of law—what is the subject-matter of a *donatio mortis causa*? Instead, however, of our law being a guide to him, the subtle distinctions that have been taken will be found to puzzle, and not to enlighten, him.

It is laid down in all the books that there must be an actual delivery of the thing, and transfer of the possession, and that a delivery of a mere symbol is not sufficient. (*Toller's Exors.* 232-235; *Wms. Exors.*)

No difficulty will arise from the application of this principle when the subject-matter is a corporeal chattel capable of actual delivery, such as a purse, a ring, or a jewel. So, again, where the subject is a corporeal chattel of too bulky a nature to admit of actual delivery, a delivery of an approximate nature is allowed; as the delivery of the key of a trunk, (*Jones v. Selby*, *Pre. Ch.* 300), or the key of a warehouse, (*Ward v. Turner*, 2 *Ves. sen.* 434), passes the goods. But where there has been a delivery of a chose in action an executor acts at his own peril, from the difficulty of applying the two rules above laid down—rules established at a time when the Courts shuddered at the idea of an assignment of a chose in action; and it is only by slow degrees, and case by case, that a sanction to such a proceeding has been won from their coyness. The consequence is, that the decisions stop at a most inconvenient halting place, and for consistency sake they must either be extended, or their effect curtailed.

Lay executors, and their legal advisers too, may well wonder at a distinction which says that the handing over of bonds, bank notes, promissory notes payable to bearer, and bills of exchange indorsed in blank, would pass the property to a donee mortis causa, but a similar dealing with cheques on bankers, promissory notes not payable to bearer, and bills of exchange not indorsed in blank, would not pass the property. The law on this subject is thus stated, (1 Wms. Exors. 191 et seq.):—"A bond may be the subject of a donatio mortis causa, because the property is considered to pass by the delivery. The same has been considered with respect to bank notes, because the property is transferred by delivery. And on the same principle it would seem that with regard to all negotiable instruments, which require nothing more than delivery to pass to the donee, the money secured by them may be the subject of a donatio mortis causa. For since it has been so adjudged of bank notes, there appears no reason why Exchequer notes, or promissory notes payable to bearer, or bills of exchange indorsed in blank, should not have the same capability, for in all those cases the property passes by delivery." And the cases cited bear out this proposition. But even in the case of bonds the Courts had to make an exertion to overcome their scruples; for in the early case of *Parthwick v. Friend*, (2 Coll. 362, note (c)), the grandfather of both the plaintiff and the defendant having, in his last illness, delivered to the defendant a tin box, containing fifteen East India bonds, of 100*l.* each, and afterwards died intestate, the then Master of the Rolls, because the bonds were mere choses in action, and the delivery did not vest a legal property in the money, decreed that they should be distributed with the rest of the personal estate. But twenty years later, in *Snellgrove v. Baily*, (3 Atk. 213), where a bond for 100*l.* was given by S. to B., who gave it to the defendant on her death-bed, saying, "If I die it is yours, and then you have something," the Lord Chancellor held that that was a sufficient donatio mortis causa to pass the equitable interest, considering how far the Courts had gone in permitting assignments of choses in action. In *Blount v. Burrow* (4 Bro. C. C. 72) India bonds were admitted on both sides, on the authority of *Snellgrove v. Baily*, to be proper subjects of a donatio mortis causa. In *Gardner v. Parker*, (3 Mad. 184), which was a case of a gift of a bond for 1800*l.* by the testator, saying, "There, take that, and keep it," Sir J. Leach, V. C., decreed that the donee, upon indemnifying the executors, might use their names in suing upon it. So, again, of bank notes. (*Ashton v. Dawson*, 2 Coll. 363, note (c); *Hill v. Chapman*, 2 Bro. C. C. 612; *Miller v. Miller*, 3 P. Wms. 357). So of a Government tally. (*Jones v. Selby*, Pre. Ch. 300). In Williams on Executors it is further stated—"But where no property is transferred to the donee by delivery of the subject, there can be no valid donatio mortis causa. Thus, in *Ward v. Turner*, (2 Ves. sen. 434), South-sea annuity receipts were held not to be a proper subject." On the same ground, bills of exchange, not indorsed in blank, have been considered incapable of being the subjects of a donatio mortis causa. A promissory note, made by a man in his last illness, cannot operate as a donatio mortis causa, for it has not that reference to the death of the

donor which is essential to such a gift. The same has been decided as to a cheque on a banker, which is an order for the payment of money, that may take effect immediately, and in the lifetime of the donor; so that it, generally speaking, is inconsistent with the nature of a donatio mortis causa.

Now, in the cases with regard to bonds, the reasons given for their recognition are, that a complete delivery takes place of that without which no one else can sue for the debt; that the donee, by burning or tearing the bond, would render it impossible for the obligee to enforce the claim upon it, as he was obliged at that time to allege profert of the deed; that there was a change of possession, and the gift, though to a volunteer, being complete inter vivos, the Courts of equity would enforce it. Although, now the doctrine of profert is changed, the delivery of bonds is still supported. And in *Ward v. Turner*, (2 Ves. sen. 434), Lord Hardwicke, C., says, "There is a great difference between delivery of a bond (which is a specialty, and itself the foundation of an action, and the destruction of which destroys the demand) and the delivery of a note payable to bearer, which is only evidence of a contract." He then goes on to say, that delivery of a symbol is not sufficient; so that, in this case, the Lord Chancellor would even have excluded notes payable to bearer.

It is to be observed, that Mr. Justice Williams' remark as to promissory notes applies to those notes only given by the testator himself, and not those in his hands given by third persons, which latter instruments must rest upon other grounds. Now, a distinction has been made between bank notes and promissory notes payable to bearer, and bills of exchange not indorsed in blank, in that in the former case the property in the money passes by delivery of the note; in the other that it does not, and, there not being a complete gift inter vivos, equity would not compel the executors to complete it. If the donations of promissory notes not payable to bearer, or bills of exchange not indorsed in blank, must be supported on the ground of equity rested upon in the old cases, it might be urged that the bond, in point of fact, is but a symbol; so of bank notes and other bills of exchange, and, in the cases before mentioned, the key of the warehouse and of the trunk; and therefore it is not true to say that a symbolical delivery is not allowed, or, if these are not symbols, neither are the promissory notes and bills in question, but that such a form of delivery is the most complete the subject admits of. Such an argument would, at all events, include the notes of third persons, and receipts for monies lent; and further, it may be urged that there really, in common sense, is no distinction between bonds and simple contract securities; and that in these days, when the object of the Courts is to arrive at the real meaning of the acts of parties, the intention is equally manifested by a delivery of the one as of the other. But it is not necessary that this reasoning should prevail, for the case of *Duffield v. Elwes* (1 Bligh, N. S., 497) lays down another, and the true, ground of equity, viz. that the delivery of the instrument creates an implied trust which equity can and will execute; in that case the delivery of the mortgage deeds of real estates was held, in

the House of Lords, to constitute a valid *donatio mortis causa*. So, in *Merideth v. Watson*, (17 Jur., part 1, p. 1064), the same decision was come to as to mortgage deeds, and Sir R. T. Kindersley, V. C., says, by the delivery of the deed the debt passes.

In *Moore v. Darton*, (4 De G. & S. 517), where, upon a loan, the borrower had given the lender a receipt in the following form—"Received of Miss Darton 500*l.*, to bear interest at 4*l.* per cent. per annum"—Sir J. L. Knight Bruce, L. J., held it a good *donatio mortis causa*, "because," in this case, "it was something more than the mere evidence of a debt; it was a document contemporaneous with the creation of the debt; it was delivered to the agent of the debtor himself; the debt was a debt carrying interest without a contract to that effect beyond the advance. That particular contract, I agree, might have been entered into without writing; but as it was created by writing, proof of the writing, if possible, was essential to the recovery upon the contract." All this might be applied, without violence, to the description of a bill of exchange not indorsed in blank, or a promissory note not payable to bearer. The American lawyers have seen the fimsiness of the distinction, and Story, J., (1 Eq. Jur., c. 10, s. 607, p. 693), says—"As by our law there must be a delivery of the thing, or instrument which represents it, in order to make a good *donatio mortis causa*, if the thing is incapable of delivery, it cannot be the subject of such donation, for it is said there must be a parting with the legal power and dominion over the thing, which is evidenced only by delivery. Thus, a mere chose in action, not subsisting in any specific instrument, cannot pass by a *donatio mortis causa*. So it has been ruled that a promissory note or a bill of exchange, not payable to bearer or indorsed in blank, cannot so take effect, inasmuch as the property therein can pass by the delivery of the instrument;" and he cites, in a note, *Miller v. Miller*, *Ward v. Turner*, and two American cases to the same effect. "But it may admit of doubt whether the doctrine of these last cases can now upon principle be supported, for the ground upon which the Courts of equity now support donations *mortis causa* is not that a complete property in the thing must pass by the delivery, but it must so far pass by the delivery of the instrument as to give a title to the donee to the assistance of the Court of equity to make the donation complete. The doctrine no longer prevails, that where a delivery will not execute a complete gift *inter vivos*, it cannot create a *donatio mortis causa*, because it would not prevent the property from vesting in the executor; and as a Court of equity will not, *inter vivos*, compel a party to complete his gift, so it will not compel the executor to complete the gift of his testator. On the contrary, the doctrine now established by the highest authority is, that Courts of equity do not consider the interest as completely vested in the donee, but treat the delivery of the instrument as creating a trust for the donee, to be enforced in equity." He quotes *Duffield v. Elwes*. Notwithstanding the attempts which have been made in England to distinguish between a promissory note and a bond, in relation to the validity of a gift of a chose in action, there cannot in reason be any difference. A gift of either is valid as a symbolical delivery of the debt due on the note or bond, and all the delivery the subject is capable of. As to the

reason given by Williams, J., as to these notes and bills if made by the testator, they must apply equally where the note, &c. is made payable to bearer, in which latter case, he says, it would pass. Then, since the Legislature has thought fit to uphold donations *mortis causa*, we submit that the intention of the parties is most effectually carried out, and that without any repugnance to decided cases, and upon the true principle of equity attaching to these cases, to the greater simplicity of the law, and to the ease, therefore, of executors, by abolishing any artificial distinction that prevents the same rule applying to promissory notes not payable to bearer, and bills of exchange not indorsed in blank, which does apply to promissory notes payable to bearer, or bills of exchange that are indorsed in blank.

### Rebels.

*A Manual of the Practice of the Court of Probate.* By ALEXANDER STAVELEY HILL, D. C. L., Fellow of St. John's College, Oxford, and of the Inner Temple, Barrister-at-Law. [H. Sweet, 1860.]

THE act of Parliament which threw open the Prerogative Court to the Profession generally, by creating the Court of Probate, occasioned the issuing of many new rules, more or less explanatory, retrospectively of the working of the old system, and prospectively of the new. As might be expected under these circumstances, those books, the object of which was to explain the practice of the Prerogative Court, are wanting in useful practical information, while those which have been written with a view to explain the new system are at the best vague and uncertain. The little book, the title of which is at the head of this notice, seems to us to contain the information that is required by the practitioner, whether he be a member of the College of Advocates, or a proctor now called upon to adapt his practice to that of the other courts in Westminster Hall; or whether, having hitherto been solely conversant with the practice of the Courts of Common Law, he is now inducted into the practice of the Ecclesiastical Courts. Dr. Hill, in his Manual, has followed the division of the Probate Court Act, 20 & 21 Vict. c. 77, and has arranged his subject under annotations upon the different sections of that act, introducing more especially the working of the Court, under the heads of "Powers of the Court," "Practice of the Court," "Practice of the District Registry," and "Practice of the County Court." The notes under these two latter heads will, we venture to think, be of the greatest use to country practitioners. The whole work shews that no pains have been spared on it, while all the cases which have been reported since the new court came into existence are referred to. Many decisions not reported are quoted, shewing that Dr. Hill has also been a regular attendant at the sittings of the Court. There is a useful note (p. 145) on the Confirmation of Executors Act, containing information which we have not seen elsewhere. The addition of the Acts of Parliament, and the Rules and Orders, which will be found in the Appendix, and a copious index, render the Manual really a handy book.

The Right Hon. Sir William Erle, Knt., Lord Chief Justice of her Majesty's Court of Common Pleas at Westminster, has appointed the following gentlemen to be Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women:—George Frederick Carnell, of Sevenoaks, Kent, in and for the county of Kent; and Robert Growse, of Hastings, Sussex, in and for the county of Sussex.

## PATENT RIGHT.

THE following extract from a paper read by Thomas Webster, Esq., barrister-at-law, before the Social Science Association in 1859, and lately reprinted, may be acceptable to our readers, who have had the advantage of perusing the observations of Mr. Grove and of Mr. Webster in our last two numbers:—

"Far be it from me to disparage the value of trial by jury. I believe it to be a shield against the infirmities of humanity, which in many cases cannot be over-estimated—to be the best tribunal for many cases which the wit of man has devised, and not inapplicable as an auxiliary in some few cases of conflict of testimony on facts of copyright and patent right. But the present course of proceeding, crowned by the jury trial, I believe to be the main cause of the grievance and well-founded complaints and dissatisfaction in the administration of this department of the law, and that a change in this respect would be the basis of other reforms.

"In elucidation of this question, it may be expedient to trace the progress of a contested action on copyright or patent right, many actual cases of which may be cited.

"The first step, notwithstanding the extension of jurisdiction recently conferred on the Courts of Common Law, is generally a bill in equity, presenting the view of the case which at the time appears most calculated to answer the object in view.

"This application is supported and opposed by affidavits and counter-affidavits of indefinite expansibility. The words of Lord Lyndhurst, when speaking on a recent occasion on the mode of taking evidence in the Court of Chancery\*, admirably expose the pernicious consequence of this system:—'The basis of an affidavit is supplied by a scientific witness, then it is drawn by a solicitor, and settled by counsel, the result of which elaborate process is naturally a confusion of the scientific facts. It is commonly the case that unpractised witnesses, who may be quite conversant with the manufacture in question, and who give valuable evidence upon it as the basis of the affidavit, are continually induced to accept the *ex parte* version of it, without really understanding the effect of what is ostensibly their own evidence.' The filing of affidavits having ceased, the motion is arrived at, and arguments of greater or less length are heard before a judge, perhaps the most competent, from knowledge and position, to weigh the similarities and dissimilarities of the conflicting affidavits, settled as explained with all the professional skill, scientific and legal, that money can command. The parties are then handed over to, and have to start afresh before, another tribunal, for a trial by jury. This stage passed, the matter is ripe for the opinion of the Court on the points of law reserved at the trial, the result of which is, generally, (if funds do not fail), either a new trial or an appeal to the Exchequer Chamber, thence to the House of Lords, and a return, after some indefinite period, to the same learned judge in equity with whom the proceedings commenced, and possibly to a rehearsal before the Lords Justices or the Lord Chancellor, as the finale, unless the learned judge in equity, on the matter being brought before him the second time, should order a new trial.

"The even tenor of the progress of this drama may be interrupted by various interlocutory applications, the sources of great delay and expense, to the Courts of equity and law, to the judge at chambers, by a commission to examine witnesses abroad, and possibly a *scire facias* to repeal the patent.

"Those conversant with the litigation in the cases of

the patents of Kay, Walton, Muntz, Heath, Lister, Bovill, Hills, and Betts, will recognise in the above no exaggerated pictures, and counterparts of them may be found in several recent cases of copyright in books and designs. The questions in these cases are substantially two—namely, piracy and title; for the incidental question, of the sufficiency of the specification or registration, as unconnected with the above, arising only occasionally and incidentally, may for the present purpose be disregarded.

"The proceedings in a patent action may not be inaptly termed 'legal bush-fighting': the plaintiff is anxious to throw his net as wide as possible, so as to include in its meshes all possible imitations or improvements; and the defendant is on the look-out to take advantage of the too great extension of the net, and entangle its meshes in the fatal toils of prior invention, or to lie by and impeach the validity of the patent by the production of a book, or specification, or instance of prior publication and use.

"The act of 1835, commonly called Lord Brougham's Act, contains the first legislative attempt to prevent the plaintiff being thus tripped up. A defendant is required to give notice of objections intended to be relied on, impeaching the validity of the patent. The usefulness of this measure was much impaired by decisions which introduced an amount of uncertainty and refinement by which the provision was virtually frittered away.

"By the Patent-law Amendment Act, 1852, the plaintiff is required to deliver particulars of his breaches, so as to give the defendant specific information as to the part of the invention alleged to have been infringed, or the machine or process complained of—that is, of the act of infringement; and the defendant is required to give information as to the time and place of any instance of prior publication or use alleged to impeach the patent. Each party, therefore, has now the power of obtaining information of the nature of the complaint, and of the answer to be made.

"Professional ingenuity, however, has contrived to convert this most wholesome enactment into a source of considerable embarrassment and expense, with which the judges have not attempted to deal, although made a matter of grave complaint on the trial of almost every action. True it is, that the plaintiff knows the extent of the matter to be brought against his title, but he knows not which part of it is intended to be used—he has no means of extracting the wheat from the chaff. On the other hand, the defendant, from not knowing with precision the way in which the infringement will be presented, dare not limit his particulars, for fear of being excluded from the very objection which the way in which the plaintiff shapes his case may render essential; and instances are notorious in which some fifty specifications, books, printed documents, and places of user have been inserted in the particulars of objections, whereas at the trial one or two, or a small portion of one or two, only are relied on. The consequence is, that the plaintiff must employ highly-paid professional talent, legal and scientific, to read all this mass, and to investigate as far as possible what part may possibly be so material as to require explanation or an answer. The expense so occasioned in preparing for trial is enormous, but the consequences at the trial are equally serious.

"The present Lord Chancellor, (Lord Campbell), when Chief Justice, had his attention directed to the subject in many of the patent actions recently tried by that most learned and experienced judge; and in the last, or nearly the last, case, suggested a course, which was acceded to by the parties, that the specifications relied on should be put in evidence, with so much oral evidence as was necessary on either side to ascertain facts, and that these documents, with his notes and the

\* Speech in the House of Lords, session 1859.

models, should be brought before the Court on motion, and that the Court should be at liberty to draw such inferences and find such facts as a jury might have drawn or found. Had the trial progressed in the ordinary course, two days at the least would have been uselessly consumed, and the result would have been incumbered with the finding of a jury, the ordinary and attendant uncertainties of which would probably have, as in most similar cases, involved a second, and possibly a third, jury trial.

"In nine cases out of ten there is no question of disputed fact with which the Court cannot deal in a much more satisfactory manner than a jury. The object to be attained is a case for the opinion of the Court upon written documents and machines, with such explanation of the terms of art as the case may require. What is the province of the Court, and what of the jury, as to the interpretation of the terms of art, has furnished some curious discussion and speculation among the learned judges.

"The extreme dissatisfaction resulting from this state of things has led to the suggestion of various remedies, amongst which a special court for the trial of patent causes is, perhaps, the most popular\*. Much may be urged, both by way of analogy and otherwise, in favour of a special court, but much also may be said against the policy of multiplying tribunals for special subjects, unless the existing tribunals are clearly inadequate for the purpose.

"The decisions of the superior Courts, when obtained, cannot be regarded as presenting more instances of uncertainty in relation to property in intellectual labour than in relation to other property. The true course would appear to be to reform the proceedings, whereby a decision may be attained with less delay and expense: without such reform a special court could not afford the required relief. In considering this subject the two existing tribunals, of the law officers and of the commissioners, must not be lost sight of. Much that has often been suggested might be effected by making the Commissioners of Patents an efficient, instead of a mere official, body.

"Experience shews that the object to be arrived at in most cases is a special case founded on facts, about which there can be no dispute, or, if any, such only as ought to be disposed of by the law officer, or a commissioner of ordinary experience in questions of this nature. The object in the administration of justice is, first to ascertain the facts, and then to apply the law. A review of nine-tenths of recent patent cases will shew that no difficulty exists in ascertaining the facts, the main difficulty being in applying the law on the question of infringement, whether the act of the defendant was an imitation of, and improvement of, the invention claimed by the plaintiff, or of some antecedent invention then the property of the public.

"It may be mentioned that in no case within my recollection has a jury failed to find a verdict for a plaintiff on the simple question of infringement—a remarkable fact, which ought never to be forgotten in considering the working of the jury system in connexion with this class of cases.

"Another subject of importance adverted to in a communication to the Liverpool meeting of the National Association, and printed in the volume of its proceedings, is a compulsory power of obtaining licenses under patents. The annals of invention shew that most inventions have been the subject of patents; most recent inventions are improvements on some prior invention, and most frequently on an existing patent. Such patent may be used for the purpose of obstruction, and

experience shews this to be a real grievance, for which the application of some remedy, analogous to that of compulsory purchase under the Lands Clauses Consolidation Act, should be applied. The learned and experienced Mr. Commissioner Hill called attention to this subject in his evidence before the committee of the House of Lords in 1851, and it would appear a proper subject to be dealt with by arbitration, under the control of the commissioners.

"The multiplication of patents under the present system, as adverted to in the Report of the Committee of the British Association to the meeting at Aberdeen, is one great source of litigation, encouraging speculative actions, and introducing a species of uncertainty to an extent which can hardly be believed by persons not conversant with the operation of the system.

"The rendering the Commissioners of Patents an efficient body, instead of limiting its operation, as at present, to official routine, would afford the means of checking the present unreasonable multiplication of legal rights, and of producing some consistency in the granting of patents, and in the practice as to disclaimers, and memoranda of alterations, with other advantages, which have been repeatedly suggested by persons conversant with the subject."

## BILLS IN PROGRESS.

### COURT OF CHANCERY BILL.

(LORD CHANCELLOR).

*A Bill intituled "An Act to make better Provision for the Relief of Prisoners in Contempt of the High Court of Chancery, and Pauper Defendants, and for the more efficient Despatch of Business in the said Court."*

- Sect. 1. The Queen's prison to be visited quarterly.
2. Prisoners and other persons may be examined on oath.
3. Provision where a prisoner is an idiot or lunatic.
4. Solicitor to Suitors Fund may be appointed solicitor to pauper defendants.
5. Additional salary to solicitor to Suitors Fund.
6. Expenses incurred for prisoners and pauper defendants to be paid out of Suitors Fund.
7. Gaolers to make reports to Lord Chancellor of all Chancery prisoners.
8. Powers to make general orders.
9. Custody of deeds under the care of late masters.
10. Appointment of additional chief clerk to the Master of the Rolls.
11. Power to appoint junior clerks.
12. Power to transfer such chief clerk and junior clerks to any of the Vice-Chancellors.
13. Duties, &c. of clerks under this act.
14. By whom orders under this act are to be made.

### ATTORNIES AND SOLICITORS BILL.

(MR. JOHN LOCKE, MR. EDWIN JAMES, AND MR. DENMAN).

*A Bill intituled "An Act to amend the Act for consolidating and amending several of the Laws relating to Attornies and Solicitors practising in England and Wales."*

Preamble recites stats. 6 & 7 Vict. c. 73; 7 & 8 Vict. c. 86; and 14 & 15 Vict. c. 88.

- Sect. 1. Interpretation clause. Attorney. Solicitor.
2. Sect. 7 of the first hereinbefore-mentioned act shall be repealed, and any person having taken the degree of bachelor of arts or bachelor of laws in any of the universities of Oxford, Cambridge, Dublin, Durham, or London, or in the Queen's University in Ireland, and who, at any time after having taken such degree, and either before or after the passing of this act, has been bound by and has duly served under articles of clerkship to a practising attorney or solicitor for the term of three years, and has been examined and sworn, after the expiration of such term, in manner directed by the first herein-

\* See an able article on this subject in Newton's London Journal for February, 1857, and November, 1859.

before-mentioned act, may be admitted and inrolled as an attorney and solicitor, and service for any part of the said term, not exceeding one year, with the London agent of such attorney or solicitor, in the proper business, practice, or employment of an attorney or solicitor, either by virtue of any stipulation in such articles, or with the permission of such attorney or solicitor, shall be and be deemed to have been good service under such articles for such part of the said term; and where any person has, before the passing of this act, and at any time after having taken such degree, been bound as aforesaid for five years, he may, after having duly served three years of such term in such manner as would have been required if he had been bound for three years only, and having been examined and sworn as aforesaid, be admitted and inrolled as an attorney and solicitor, and the articles of clerkship shall be deemed to have determined as if they had determined by effluxion of time.

3. Any person who shall for the term of ten years have been a *bonâ fide* clerk to an attorney or solicitor, or attorneys or solicitors, and who, either before or after the passing of this act, has been bound by and has duly served under articles of clerkship to a practising attorney or solicitor for the term of three years, and has been examined and sworn, after the expiration of such term, in manner directed by the first hereinbefore-mentioned act, may be admitted and inrolled as an attorney and solicitor, and service for any part of the said term, not exceeding one year, with the London agent of such attorney or solicitor, in the proper business, practice, or employment of an attorney or solicitor, either by virtue of any stipulation in such articles, or with the permission of such attorney or solicitor, shall be and be deemed to have been good service under such articles for such part of the said term; and where any person has, before the passing of this act, and at any time after, been a *bonâ fide* clerk to an attorney or solicitor, or attorneys or solicitors, for the term of ten years, and been bound, before the passing of this act, for five years, he may, after having duly served three years of such term in such manner as would have been required if he had been bound for three years only, and having been examined and sworn as aforesaid, be admitted and inrolled as an attorney and solicitor, and the articles of clerkship shall be deemed to have determined as if they had determined by effluxion of time.

4. Where the three years expire between any two of the legal terms, admission may take place in the term preceding the expiration of the three years.

5. The Lords Chief Justices of the Courts of Queen's Bench and Common Pleas, and the Lord Chief Baron of the Court of Exchequer, jointly with the Master of the Rolls, may, if they think fit, from time to time, by regulations to be made by them, direct that any persons having successfully passed any examination already established in the University of Oxford or Cambridge for students not members of the university, or any other examination of a similar nature (to be specified in such regulations) hereafter established in any of the universities hereinbefore mentioned, may be admitted and inrolled as an attorney or solicitor, after having been subsequently bound by, and having duly served under, articles of clerkship to a practising attorney or solicitor for the term of four years, and been examined and sworn as aforesaid after the expiration of such term; and the said judges may from time to time revoke or alter such regulations as they think fit, but not so as to allow a less term of service than four years.

6. Sect. 6 of the first hereinbefore-mentioned act shall apply as well to any person bound as therein mentioned as a clerk to a practising attorney or solicitor for the term of four years only, where under the said regulations that term is sufficient, as to any person so bound for the term of five years, and shall be read and construed accordingly.

7. Judges may require examination in general knowledge, either before articles or before admission, with power to dispense therewith in special cases.

8. Articled clerks not to hold other office or employment.

9. The examination which, under the firstly hereinbefore-mentioned act or this act, is authorised and required touching the fitness and capacity of a person to act as an attorney or as a solicitor (as the case may be) before his admission as an attorney or solicitor shall be deemed to include such examination touching his fitness and capacity to act in matters of business usually transacted or performed by attorneys or so-

licitors as the examiners for the time being deem proper, subject nevertheless to any rules, orders, or regulations for conducting the said examination to be from time to time made in manner provided by the firstly hereinbefore-mentioned act.

10. Persons not to be admitted in palatine courts without examination.

11. Extent of act.

12. Recited act and this act to be construed as one act.

## TRADING COMPANIES, &c. BILL.

(LORD CHANCELLOR).

*A Bill intituled "An Act for the Incorporation, Regulation, and Winding up of Trading Companies and other Associations."*

### Preliminary.

Sect. 1. Short title.

2. Prohibition of partnerships exceeding certain number. (Banking, 10; other business, 20). 20 Vict. c. 47, s. 4; 21 Vict. c. 49, s. 13\*.

3. Division of act.

### PART I.—CONSTITUTION AND INCORPORATION OF COMPANIES AND ASSOCIATIONS FORMED UNDER THIS ACT.

#### Memorandum of Association.

4. Mode of forming company. 20 Vict. c. 47, s. 3.

5. The liability of the members of a company formed under this act may, according to the memorandum of association, be limited either to the amount, if any, unpaid on the shares respectively held by them, or to such amount as the members may respectively undertake by the memorandum of association to contribute to the assets of the company in the event of its being wound up.

6. Where a company is formed on the principle of having the liability of its members limited to the amount unpaid on their shares, hereinafter referred to as a company limited by shares, the memorandum of association shall contain the following things:—

- (1). The name of the proposed company, with the addition of the word "limited" as the last word in such name:
- (2). The part of the United Kingdom, whether England, Scotland, or Ireland, in which the registered office of the company is proposed to be situate:
- (3). The objects for which the proposed company is to be established:
- (4). A declaration that the liability of the members is limited:
- (5). The amount of capital with which the company proposes to be registered, divided into shares of a certain fixed amount.

Subject to the following regulations:—

- (1). That no subscriber shall take less than one share:
- (2). That each subscriber of the memorandum of association shall write opposite to his name the number of shares he takes:
- (3). That in the case of a banking company the shares into which the capital of the company is divided shall not be of less amount than 100*l.* each.

7. Where a company is formed on the principle of having the liability of its members limited to such amount as the members respectively undertake to contribute to the assets of the company in the event of the same being wound up, hereinafter referred to as a company limited by guarantee, the memorandum of association shall contain the following things—that is to say,

- (1). The name of the proposed company, with the addition of the word "limited" as the last word in such name:
- (2). The part of the United Kingdom, whether England, Scotland, or Ireland, in which the registered office of the company is proposed to be situate:
- (3). The objects for which the proposed company is to be established:

\* Many of the clauses which are here briefly noticed are materially different from the enactments for which they are substituted.

- (4). A declaration that each member undertakes to contribute to the assets of the company, in the event of the same being wound up, during the time that he is a member, or within one year afterwards, for payment of the debts of the company, and of the costs, charges, and expenses of winding up the company, and for the adjustment of the rights of the contributors amongst themselves, such amount as may be required, not exceeding a specified amount.

Subject to the following restriction:—

That no company formed for the purposes of banking shall be registered as a company limited by guarantee, unless each member undertakes, in the event of the company being wound up, to contribute to its assets, for the purposes aforesaid, a sum, if required, of not less than 100l.

8. Memorandum of association of an unlimited company. 20 Vict. c. 47, s. 10.  
9. Stamp, signature, and effect of memorandum of association. 20 Vict. c. 47, s. 7.  
10. Power of certain companies to alter memorandum of association. 20 Vict. c. 47, s. 37.

#### *Articles of Association.*

11. Regulations to be prescribed by articles of association. 20 Vict. c. 47, s. 9.  
12. Application of Table A. 20 Vict. c. 47, s. 8.  
13. Stamp, signature, and effect of articles of association. 20 Vict. c. 47, s. 11.

#### *General Provisions.*

14. Registration of memorandum of association and articles of association. 20 Vict. c. 47, s. 12.  
15. Effect of registration. 20 Vict. c. 47, s. 13; 21 Vict. c. 14, s. 4.  
16. Copies of memorandum and articles to be given to members. 20 Vict. c. 47, s. 26; 21 Vict. c. 14, s. 10.  
17. Prohibition against identity of names in companies. 20 Vict. c. 47, s. 6.

18. Where any association is about to be formed under this act as a company limited by guarantee, if it proves to the Board of Trade that it is formed for the purpose of promoting art, science, religion, charity, or for any other useful object, and that it is the intention of such association to apply the profits, if any, or other income of the association, in promoting its object, and to prohibit the payment of any dividend to the members of the association, the Board of Trade may, by license under the hand of one of the secretaries or assistant secretaries, direct such association to be registered with limited liability without the addition of the word "limited" to its name, and such association may be registered accordingly, and upon registration shall enjoy all the privileges and be subject to the obligations by this act imposed on companies limited by guarantee, with the exceptions that none of the provisions of this act that require a limited company to use the word "limited" as any part of its name, or to publish its name, or to send a list of its members, directors, or managers to the registrar, shall apply to an association so registered: any license by the Board of Trade may be granted upon such conditions and subject to such regulations as the board thinks fit to impose, and such conditions and regulations shall be binding on the association, and may, at the option of the said board, be inserted in the memorandum and articles of association, or in one of such documents.

19. No company formed for charitable or other like purposes, not involving the procurement of gain to the company or to the individual members thereof, shall, without the sanction of the Board of Trade, hold more than two acres of land; but the Board of Trade may, by license under the hand of one of their principal secretaries, empower any such company to hold lands in such quantity, and subject to such conditions, as they think fit.

20. Liability of banking company that is not registered as such. 21 Vict. c. 49, s. 17.

#### **PART II.—DISTRIBUTION OF CAPITAL OF COMPANIES AND ASSOCIATIONS FORMED UNDER THIS ACT.**

21. Nature of interest in company. 20 Vict. c. 47, s. 15.  
22. Subscribers to be registered. 20 Vict. c. 47.  
23. Any transfer of the share or other interest of a deceased member of a company formed under this act, made

by his personal representative, shall, notwithstanding such personal representative may not himself be registered as a member, be of the same validity as if he had been so registered at the time of the execution of the instrument of transfer.

24. Register of members. 20 Vict. c. 47, ss. 16, 17.  
25. Annual list of members. 20 Vict. c. 47, s. 17.  
26. Penalty on company not keeping a proper register.  
27. Company to give notice of conversion of capital into stock. 21 Vict. c. 14, s. 6.  
28. Effect of conversion of shares into stock.  
29. Entry of trusts on register. 20 Vict. c. 47, s. 19; 21 Vict. c. 49, s. 15.  
30. Certificate of shares. 20 Vict. c. 47, s. 21.  
31. Inspection of register. 20 Vict. c. 47, s. 23.  
32. Power to close register. 20 Vict. c. 47, s. 24.  
33. Notice of increase of capital and of members to be given to registrar. 20 Vict. c. 47, s. 37.  
34. Remedy for improper entry or omission of entry in register. 20 Vict. c. 47, s. 25; 21 Vict. c. 14, s. 9.  
35. Notice to registrar of rectification of register.  
36. Register to be evidence. 20 Vict. c. 47, s. 26.

#### **PART III.—MANAGEMENT AND ADMINISTRATION OF COMPANIES AND ASSOCIATIONS FORMED UNDER THIS ACT.**

##### *Provisions for Protection of Creditors.*

37. Registered office of company. 20 Vict. c. 47, s. 82.  
38. Notice of situation of registered office. 20 Vict. c. 47, s. 29.  
39. Publication of name by a limited company. 20 Vict. c. 47, s. 30.  
40. Penalties on non-publication of name. 20 Vict. c. 47, s. 31.  
41. Banking companies to publish statement entered in schedule. 22 Vict. c. 60, s. 4.  
42. Every company formed under this act, and not having a capital divided into shares, shall keep at its registered office a register containing the names and addresses and the occupations of its directors or managers, and shall send to the registrar of joint-stock companies a copy of such register, and shall from time to time notify to the registrar any change that takes place in such directors or managers.  
43. If any company formed under this act, and not having a capital divided into shares, makes default in keeping a register of its directors or managers, or in sending a copy of such register to the registrar, in compliance with the foregoing rules, or in notifying to the registrar any change that takes place in such directors or managers, such delinquent company shall incur a penalty not exceeding 5l. for every day during which such default continues.  
44. Contracts, how made. 20 Vict. c. 47, s. 41.  
45. Promissory notes and bills of exchange. 20 Vict. c. 47, s. 43.  
46. Prohibition against carrying on business with less than seven members. 20 Vict. c. 47, s. 39.

##### *Provisions for Protection of Members.*

47. General meeting of company. 20 Vict. c. 47, s. 32.  
48. Power to alter regulations by special resolution. 20 Vict. c. 47, s. 38.  
49. Definition of special resolution. 20 Vict. c. 47, s. 34.  
50. In default of any regulations as to voting, every member shall have one vote; and in default of any regulations as to summoning general meetings, a meeting shall be held to be duly summoned of which seven days' notice in writing has been served on every member in the manner in which notices are required to be served by the third schedule hereto, or by any provisions that may be substituted for the provisions as to notices in the third schedule; and in default of any regulations as to the persons to summon meetings, five members shall be competent to summon the same; and in default of any regulations as to who is to be chairman of such meeting, it shall be competent for any person elected by the members present to preside.  
51. Registry of special resolutions. 20 Vict. c. 47, s. 35.  
52. Copies of special resolutions. 20 Vict. c. 47, s. 36.  
53. Evidence of proceedings at meetings. 20 Vict. c. 47, s. 40.  
54. Execution of deeds abroad. 20 Vict. c. 47, s. 42.



55. Examination of affairs of company by inspectors. 20 Vict. c. 47, s. 48; 20 Vict. c. 49, s. 15.  
 56. Application for inspection to be supported by evidence.  
 57. Inspection of books. 20 Vict. c. 47, s. 49.  
 58. Result of examination, how dealt with. 20 Vict. c. 47, s. 50.  
 59. Power of company to appoint inspectors. 20 Vict. c. 47, s. 51.  
 60. Report of inspectors to be evidence. 20 Vict. c. 47, s. 52.

#### Notices.

61. Service of notices on company. 20 Vict. c. 47, s. 53.  
 62. Rules as to notices by letter. 20 Vict. c. 47, s. 54.  
 63. Authentication of notices of company. 20 Vict. c. 47, s. 55.

#### Legal Proceedings.

64. Recovery of penalties. 20 Vict. c. 47, s. 56.  
 65. Application for penalties. 20 Vict. c. 47, s. 56.  
 66. Jurisdiction of vice-warden of Stannaries.  
 67. Provision as to costs in actions brought by certain limited companies. 21 Vict. c. 14, s. 24.

#### Alteration of Forms.

68. Board of Trade may alter forms in schedule. 20 Vict. c. 47, s. 50; 21 Vict. c. 14.

#### Arbitrations.

69. Power for companies to refer matters to arbitration.  
 70. Provisions of Railway Companies Arbitration Act to apply.

### PART IV.—CONTRIBUTORIES OF COMPANIES AND ASSOCIATIONS FORMED UNDER THIS ACT.

71. Every person who has agreed to become a member of a company formed under this act, and whose name is entered on the register of members, and who is not shewn by such register to have ceased to be a member at the time of the commencement of the winding up, shall, for the purpose of contribution to the assets of the company, be deemed to be an existing member of such company.

72. Every person who has agreed to become a member of a company formed under this act, and whose name has been entered on the register of members, but who is shewn by such register to have ceased to be a member before the time of the commencement of the winding up, shall, for the purpose of contribution to the assets of the company, be deemed to be a past member of the company, and his membership shall be deemed to have continued from the date of the first entry of his name in the register of members until the time at which the entry is made on the register whereby he is shewn to have ceased to be a member.

73. Every person who has agreed to become a member of a company formed under this act, in respect of some share or interest which is not represented on the register by any holder, but whose name is not entered on the register of members, shall, for the purpose of contribution to the assets of the company, be deemed to be an existing member, in the same manner as if his name had been duly entered on the register.

74. The personal representative of a deceased member, who has received any dividend or profit in respect of his shares or other interest in the company declared after the expiration of twelve months from the time at which probate of the will or letters of administration to the effects of such deceased member was or were taken out, shall, for the purpose of contribution to the assets of the company, be deemed to be an existing member of the company in respect of such shares or other interest, in the same manner as if his name had been duly entered on the register as member in respect of such shares or interest.

75. If any person who has not agreed to become a member of a company participates in the profits of such company, or otherwise deals with the same in such manner as would, if the company were an individual, make him a partner of, or liable in respect of the debts of, such company, such person shall, for the purpose of contribution to the assets of the company, be deemed to be an existing member of such company, to such extent or in respect of such shares or other interest as the court, having regard to the circumstances, may think just; subject to this qualification, that no person shall be deemed to be an existing member of a company, in pursuance of this section, unless the participation in profits, or

other dealing in respect of which he is sought to be made a member, has occurred within one year prior to the commencement of the winding up.

76. Liability of existing and past members of an unlimited company. 20 Vict. c. 47, s. 62.

77. In the event of a limited company formed under this act being wound up, every existing and past member of such company shall be liable to contribute to the assets of the company to an amount sufficient for payment of the debts of the company, and the costs, charges, and expenses of the winding up, and for payment of such sums as may be required for the adjustment of the rights of the contributories amongst themselves, with the qualifications following—that is to say,

- (1). No past member shall be liable to contribute to the assets of the company if he has ceased to be an existing member for a period of one year or upwards prior to the commencement of the winding up;
- (2). In the case of a company limited by shares, no contribution shall be required from any member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as an existing or past member;
- (3). In the case of a company limited by guarantee, no contribution shall be required from any member exceeding the amount of the undertaking entered into on his behalf by the memorandum of association.

78. Where any person is liable to indemnify any member of the company against the debts of the company, and the costs, charges, and expenses of winding up the same, or against contribution for the adjustment of the rights of the contributors amongst themselves, by reason of such person being in equity the owner of the shares or interest in the company in respect of which the liability of such member has arisen, or by reason of his having entered into any express or implied undertaking to indemnify any member of the company, such person shall, to the extent of his liability, be bound to contribute to the assets as an existing member.

79. Liability of representatives and devisees of contributories. 20 Vict. c. 47, s. 65.

80. Definition of "contributory." 20 Vict. c. 47, s. 65.

81. For the purpose of ascertaining the liability, as between themselves, of members of a company having a capital divided into shares, the following rule shall be adopted—that is to say,

- (1). In the case of a company other than a limited company, every transferee of shares shall, in a degree proportioned to the shares transferred, indemnify the transferor against all existing and future debts of the company;
- (2). In the case of a limited company, every transferee shall indemnify the transferor against all calls made or accrued due on the shares transferred subsequently to the transfer.

82. Nothing in this act contained shall invalidate any provision contained in any policy of insurance or other contract whereby the liability of individual members upon any such policy or contract is restricted, or whereby the funds of the company are alone made liable in respect of such policy or contract.

### PART V.—WINDING UP OF COMPANIES AND ASSOCIATIONS FORMED UNDER THIS ACT.

#### Winding up by Court.

83. Circumstances under which company may be wound up by court. 20 Vict. c. 47, s. 67.

84. Company, when deemed unable to pay its debts. 20 Vict. c. 47, s. 68.

85. Definition of "the court." 20 Vict. c. 47, s. 60.

86. Application for winding up to be made by petition. 20 Vict. c. 47, s. 69.

87. Commencement of winding up by court. 20 Vict. c. 47, s. 64.

88. On answering of petition court may grant injunction. 20 Vict. c. 47, s. 84.

89. Course to be pursued by court on hearing petition. 20 Vict. c. 47, ss. 70, 71, 72.

90. Actions and suits to be stayed after order for winding up. 20 Vict. c. 47, s. 84.

91. Copy of order to be reported to registrar. 20 Vict. c. 47, s. 78.

92. When an order has been made for winding up a company limited by guarantee, and having a capital divided into shares, any share capital that may not have been called up shall be deemed to be assets of the company, and to be a debt due to the company from each member to the extent of any sums that may be unpaid on any shares held by him, and payable at such time as may be appointed by the court.

93. Power of Court of Chancery to transmit winding up to Court of Bankruptcy. 20 Vict. c. 47, s. 74.

94. Collection and application of assets. 20 Vict. c. 47, s. 75.

95. Appointment of official liquidators. 20 Vict. c. 47, s. 88.

96. Court may have regard to wishes of creditors or contributories.

97. Style and duties of official liquidator. 20 Vict. c. 47, s. 89.

98. Powers of official liquidator. 20 Vict. c. 47, s. 90; 22 Vict. c. 60, s. 18.

99. Discretion of official liquidator. 22 Vict. c. 60, s. 6.

100. Appointment of solicitor to official liquidator. 20 Vict. c. 47, s. 91.

101. Power of court to require delivery of property. 12 Vict. c. 45, s. 66.

102. Power of court to order payment into Bank.

103. Regulation of account with court. 12 & 13 Vict. c. 106, s. 59.

104. Power of court to summon persons before it suspected of having property of company. 20 Vict. c. 47, s. 77.

105. Examination of parties by court. 20 Vict. c. 47, s. 78.

106. Power to arrest contributory about to abscond, or to remove or conceal any of his property. 21 Vict. c. 14, s. 11.

(To be continued).

**JOHN WHITTAKER BUSH**, Wandsworth, Surrey, colour manufacturer, Feb. 28 and March 27 at half-past 12, London: Off. Ass. Edwards; Sols. Lawrence & Co., 14, Old Jewry-chambers.—Pet. f. Feb. 13.

**WILLIAM WATTS**, Southam, Warwickshire, builder, Feb. 27 and March 19 at 11, Birmingham: Off. Ass. Kinnear; Sols. Hodgson & Allen, Birmingham.—Pet. d. Feb. 13.

**ELEAZER SLADER**, Bridport, Dorsetshire, grocer, Feb. 24 and March 21 at 12, Exeter: Off. Ass. Hirtzel; Sols. Templer, Bridport; Turner & Hirtzel, Exeter.—Pet. f. Feb. 10.

**WILLIAM WORRALL**, West Melton, near Wath, Yorkshire, grocer, Feb. 25 and March 24 at 10, Sheffield: Off. Ass. Brewin; Sol. Fernell, Sheffield.—Pet. d. Feb. 7.

**RICHARD HEYS**, Heywood, Lancashire, provision dealer, March 1 and 22 at 12, Manchester: Off. Ass. Hereaman; Sol. Mellor, Oldham.—Pet. f. Feb. 8.

#### MEETINGS.

**John Tilbury** the younger, Gloucester-place, New-road, Middlesex, coachmaker, March 3 at half-past 12, London, pr. d.—**Noah George Bond**, Huddersfield, Yorkshire, bookseller, Feb. 27 at 11, Leeds, ch. ass.—**Wm. Aylward**, Sermon-lane, Doctors'-commons, London, and Paragon-place, New Kent-road, Surrey, wine merchant, Feb. 24 at half-past 1, London, last ex.—**John Augustus Joselyne** and **T. Taylor**, High Holborn, Middlesex, milliners, March 2 at 11, London, aud. ac.—**T. Motley**, **I. Hardy**, and **W. Heard**, Bristol, ironmongers, March 16 at 11, Bristol, aud. ac. and fin. div. joint est., and fin. div. sep. est. of **W. Heard**.—**James Hope**, Barnley, Lancashire, grocer, March 2 at 12, Manchester, aud. ac.; March 9 at 12, div.—**William Chesworth**, Manchester, merchant, March 1 at 12, Manchester, aud. ac.; March 8 at 12, div.—**Joseph Green**, Keridge, Prestbury, Cheshire, stone merchant, Feb. 29 at 12, Manchester, aud. ac.; March 7 at 12, div.—**John Thomas Rowe**, Liverpool, merchant, Feb. 24 at 11, Liverpool, aud. ac.—**Wm. Ramnagar**, Platts, near Stourbridge, Worcestershire, ironfounder, March 8 at 11, Birmingham, aud. ac.—**Ann Jane Sheldon**, Birmingham, licensed victualler, March 7 at 11, Birmingham, aud. ac.—**Frederick Simpson**, Birmingham, draper,

March 8 at 11, Birmingham, aud. ac.—**J. Y. Vernon**, Stourbridge, Worcestershire, draper, March 7 at 11, Birmingham, aud. ac.; March 12 at 11, div.—**A. Jones**, Aston-juxta-Birmingham, Warwickshire, edge-tool manufacturer, Feb. 27 at 11, Birmingham, aud. ac.—**Jas. Granger**, **Geo. Battison Haines**, **Wm. Richard Heath**, and **John Metcalf**, Birmingham, electro-platers, Feb. 27 at 11, Birmingham, aud. ac.—**Edward Leatherland**, Tipton, Staffordshire, licensed victualler, March 9 at 11, Birmingham, aud. ac.—**James Holdnforth**, Wolverhampton, Staffordshire, timber merchant, March 9 at 11, Birmingham, aud. ac.—**Edward Matthews**, Coventry, Warwickshire, builder, March 8 at 11, Birmingham, aud. ac.—**Schofield Crouther Sheard** and **George Underwood**, Smethwick, Staffordshire, millwrights, March 16 at 11, Birmingham, aud. ac.—**John Coles**, Radway, Warwickshire, baker, Feb. 24 at 11, Birmingham, aud. ac.—**Joseph Hickson**, Sheffield, Yorkshire, ironmonger, Feb. 25 at 10, Sheffield, aud. ac.—**Alfred Shuckforth Francis** and **George Austen**, Cheapside, City, warehousemen, March 8 at 2, London, div.—**Joseph Battie Louis Buckland**, Threadneedle-street, City, and Regent-villas, Avenue-road, Regent's-park, Middlesex, insurance agent, March 8 at 11, London, div.—**George Kinderley Jackson**, Elizabeth-street South, Pimlico, grocer, March 6 at 1, London, div.—**Cuthbert Anthony Clark**, Newgate-street, City, foreign warehouseman, March 6 at 12, London, div.—**Francis Guyver Franklin**, Bridge-street, Southwark, Surrey, plumber, March 7 at 1, London, div.—**Matthew James Popplewell**, Clement's-lane, City, and **Robert Goff**, New London-street, City, merchants, March 7 at 2, London, fin. div.—**John Cartwright**, Nottingham, innkeeper, March 8 at 11, Nottingham, aud. ac. and div.—**William Tyler** and **John Tyley**, King's Bromley, Staffordshire, millers, March 23 at 11, Birmingham, div.—**Joseph Suckling** the younger, Birmingham, hop dealer, March 16 at 11, Birmingham, div.—**Edwin Warden**, Birmingham, builder, March 15 at 11, Birmingham, div.—**John Scott**, Shrewsbury, Shropshire, coal dealer, March 8 at 11, Birmingham, div.—**Henry Farrington**, Walsall, Staffordshire, auctioneer, March 9 at 11, Birmingham, div.—**Benj. Pearson** and **William Pearson**, Stratford-upon-Avon, Warwickshire, coal dealers, March 12 at 11, Birmingham, div.—**John Withers**, Birmingham, jeweller, March 22 at 11, Birmingham, div.—**James Burton**, Atherstone, Warwickshire, bookseller, March 7 at 11, Birmingham, div.—**Wm. Bould**, Wolverhampton, Staffordshire, boot maker, March 9 at 11, Birmingham, div.—**Wm. Granger**, Wolverhampton, Staffordshire, licensed victualler, March 9 at 11, Birmingham, div.—**Bassett Edward Leigh**, Birmingham, merchant, March 29 at 11, Birmingham, div.—**Charles Edwards**, Roath and Cardiff, Glamorganshire, builder, March 15 at 11, Bristol, div.—**James McIntyre**, Merthyr Tydvil, Glamorganshire, draper, March 8 at 11, Bristol, fin. div.—**John Hughes** and **Thomas Dyne Steel**, Newport, Monmouthshire, engineers, March 8 at 11, Bristol, div. sep. est. of **T. D. Steel**.—**Mary Hindhaugh** and **Arthur Ferdinand de Neumann**, Newcastle-upon-Tyne, timber merchants, March 7 at half-past 11, Newcastle-upon-Tyne, fin. div.

#### CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

**Thos. Buss**, Market Harborough, Leicestershire, chemist, March 9 at 11, Birmingham.—**Thomas Biggleston**, Hereford, grocer, March 9 at 11, Birmingham.—**William Forrester**, Hanley, Staffordshire, iron merchant, March 9 at 11, Birmingham.—**Eliza Parry**, Liverpool, timber dealer, March 6 at 11, Liverpool.

To be granted, unless an Appeal be duly entered.

**Edward Smith**, Russell-street, Bermondsey, Surrey, wool-stapler.—**William Smith**, Tabernacle-row, Finsbury, Middlesex, carpenter.—**Samuel Welldon**, Manea, Cambridgeshire, machinist.—**Henry Fairhall** and **William Suter** the younger, London-road, Southwark, Surrey, ironmongers.—**John Bradley**, Manchester, starch dealer.—**John Cartwright**, Dunston, Lincolnshire, corn merchant.

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## GAZETTES.—FRIDAY, Feb. 17.

## BANKRUPTS.

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**KENELM CHANDLER**, Albert-road South, Norwood, Surrey, builder, March 2 at 12, and March 29 at 2, London: Off. Ass. Johnson; Sol. Orchard, 15, Hatton-garden.—Pet. f. Feb. 16.

**JOHN ROE**, Southtown, Suffolk, merchant, March 2 at half-past 1, and March 30 at 1, London: Off. Ass. Whitmore; Sols. Maples & Co., Frederick's-place, Old Jewry, London; Holt & Son, Great Yarmouth.—Pet. f. Feb. 13.

**STEPHEN ADOLPHUS JOHNSON**, Broad-street-buildings, City, commission agent, March 2 and 30 at 12, London: Off. Ass. Cannan; Sol. Kightley, 13, Carlton-street, Kentish-town.—Pet. f. Feb. 7.

**HENRY GILBERT CUTTS**, late of Southampton-street, Strand, Middlesex, and now residing in France, merchant, Feb. 24 at 12, and March 29 at half-past 1, London: Off. Ass. Graham; Sol. Hickin, 11, Serjeants'-inn, Fleet-street.—Pet. f. Nov. 3.

**AUGUSTUS BRINE**, Euston-road, St. Pancras, and Canal-road, Caledonian-road, Middlesex, marble merchant, (carrying on business under the firm of Brine, Brothers), Feb. 29 at 12, and April 2 at 1, London: Off. Ass. Pennell; Sol. Chidley, 10, Basinghall-street.—Pet. f. Feb. 13.

**GEORGE BOOTH**, Holmes-terrace, Kentish-town, Middlesex, provision merchant, Feb. 29 at 1, and April 2 at half-past 12, London: Off. Ass. Pennell; Sol. Wellborne, 17, Duke-st., London-bridge, Southwark.—Pet. f. Feb. 15.

**CHARLES JAMES SAYER**, Francis-place, Holloway, Middlesex, boarding-house keeper, Feb. 29 at half-past 1, and April 2 at 2, London: Off. Ass. Pennell; Sols. J. & J. H. Linklater & Co., 7, Walbrook, City; Layton, jun., 2, Old Paradise-row, Islington-green.—Pet. f. Feb. 16.

**SHREWSBURY GIFFORD**, Newport, Essex, corn dealer, March 3 and April 3 at 12, London: Off. Ass. Lee; Sols. Rennolls, 1, Lincoln's-inn-fields, London; Watts, St. Ives, Huntingdonshire.—Pet. f. Feb. 15.

**HENRY COLLINGBOURNE**, Foleshill, near Coventry, Warwickshire, ribbon manufacturer, Feb. 27 and March 19 at 11, Birmingham: Off. Ass. Whitmore; Sols. Minster, Coventry; Reece, Birmingham.—Pet. d. Feb. 13.

**WILLIAM WATTS**, Southam, Warwickshire, builder, Feb. 27 and March 19 at 11, Birmingham: Off. Ass. Kinnear; Sols. Hodgson & Allen, Birmingham; Welchman, Southam.—Pet. d. Feb. 13.

**ARTHUR FISHER**, late of Nottingham, grocer, and now of Wilford, Nottinghamshire, out of business, March 1 at 11, and March 20 at half-past 11, Nottingham: Off. Ass. Harris; Sols. Cowley & Everall, Nottingham.—Pet. d. Feb. 14.

**GEORGE CHAMBERS WHITE**, Donington, Lincolnshire, brewer, March 1 at 11, and March 20 at half-past 11, Nottingham: Off. Ass. Harris; Sols. Staniland & Wigelsworth, Boston; Sollory, Nottingham.—Pet. d. Feb. 16.

**DAVID STODHART OLIVER**, Bristol, wine merchant, and Llangoyd, Glamorganshire, (carrying on business with Robert Barter, Charles Sheppard, John Bell Dunn, William Henry Buckland, Thomas Plummer Dunn, and William Davis, under the style or firm of R. P. Lemon & Co.), ironmaster, Feb. 27 and April 2 at 11, Bristol: Off. Ass. Acraman; Sol. Salmon, Bristol.—Pet. f. Feb. 8.

**JOHN WEBSTER**, Wavertree, near Liverpool, joiner, March 1 and 23 at 11, Liverpool: Off. Ass. Turner; Sol. Worship, Liverpool.—Pet. f. Feb. 14.

## MEETINGS.

*Samuel Davidson and Adolph Kanter*, St. Mary Axe, City, importers of foreign merchandise, March 9 at 11, London, last ex.—*Philip Hawks*, Kinson-lodge, near Poole, Dorsetshire, brickmaker, March 28 at 12, Exeter, last ex.—*William James Webber*, Teignmouth, Devonshire, baker, Feb. 29 at 12, Exeter, last ex.—*Robert Harman*, Littlewick, White Waltham, Berkshire, corn dealer, March 1 at half-past 11, London, and ac.—*Robert Hookley*, Chisep-street, Poplar, Middlesex, victualler, Feb. 29 at 12, London, and ac.—*Joseph Benjamin Lachford*, Regent-street, Middlesex, hoaler,

Feb. 29 at 12, London, and ac.—*George Sully*, Cardiff, Glamorganshire, shipbroker, March 16 at 11, Bristol, and ac.—*Charles John Goodwin*, Hulme, Manchester, and Chesterfield, Derbyshire, tavern keeper, Feb. 29 at 12, Manchester, and ac.—*Charles Gentile*, Crosby-square, Bishopsgate-street, City, merchant, March 9 at 11, London, div.—*James Pursell*, Cornhill, City, and South-place, Herne-hill, Surrey, confectioner, March 9 at 1, London, div.—*William Layton*, Landport, Portsea, Hampshire, boot maker, March 15 at 11, London, div.—*Charles Ireson* the younger, Northampton, builder, March 12 at 1, London, div.—*William Price Waghorn*, Tatsfield, Surrey, grocer, March 12 at 12, London, div.—*James Howarth*, Ashton-under-Lyne, Lancashire, linen-draper, March 2 at 12, Manchester, and ac.—*John Ellis*, Liverpool, timber merchant, March 1 at 11, Liverpool, and ac.; March 9 at 11, div.—*George Holden* the elder and *George Holden* the younger, pencil-case manufacturers, March 12 at 11, Birmingham, div.

## CERTIFICATES.

*To be allowed, unless Cause be shown to the contrary on or before the Day of Meeting.*

*Edward Triggs and William Triggs*, Southampton, upholsterers, March 9 at half-past 11, London.—*William Levett*, Union-street, Southwark, and Blackfriars-road, Surrey, patent wadding manufacturer, March 9 at half-past 1, London.—*Thomas Pratt*, Dean-street, Soho, Middlesex, farrier, March 12 at 12, London.

*To be granted, unless an Appeal be duly entered.*

*John Godfrey and John Daniel Delany*, Savoy-street, Strand, Middlesex, printers.—*Frederick Henry Dench*, High-street, Poplar, Middlesex, currier.

## SCOTCH SEQUESTRATIONS.

*I. F. Coyle*, Glasgow.—*James Kincaid*, Hamilton, Lanarkshire, cabinet maker.—*William F. Booth*, Greenock, spirit dealer.

## TUESDAY, Feb. 21.

## BANKRUPTS.

**WILLIAM JACOB THORPE**, New Peckham, Surrey, painter, March 2 at half-past 11, and March 29 at 11, London: Off. Ass. Bell; Sol. Reed, 1, Guildhall-chambers.—Pet. f. Feb. 15.

**GEORGE SIMONS and MOSES SIMONS**, King's-square, Goswell-road, Middlesex, watch manufacturers, (trading under the style or firm of G. & M. Simons), March 6 at 2, and April 17 at 12, London: Off. Ass. Lee; Sols. Reece & Co., 10, St. Swithin's-lane, London; Reece, Birmingham.—Pet. f. Feb. 11.

**DEODATUS RICHARD LILLY**, Birmingham, coach builder, March 2 and 27 at 11, Birmingham: Off. Ass. Kinnear; Sol. Suckling, Birmingham.—Pet. d. Feb. 17.

**JOHN GOODFELLOW**, Coventry, Warwickshire, cabinet maker, March 2 and 23 at 11, Birmingham: Off. Ass. Whitmore; Sols. Hodgson & Allen, Birmingham; Blake & Snow, College-hill, Cannon-street, London.—Pet. d. Feb. 14.

**SAMUEL BEDDOE** the elder, Horsley Heath, Tipton, and Black Lake, West Bromwich, Staffordshire, rope manufacturer, March 3 and 23 at 11, Birmingham: Off. Ass. Whitmore; Sols. Jackson & Travis, West Bromwich.—Pet. d. Feb. 20.

**FRANCIS HENRY STAIT**, Cardiff, Glamorganshire, baker, March 6 and April 3 at 11, Bristol: Off. Ass. Miller; Sols. Bevan & Co., Bristol.—Pet. f. Feb. 6.

**JOHN JAMES HOLT**, York, tobacconist, March 5 at half-past 12, and April 2 at 11, Leeds: Off. Ass. Hope; Sols. Grayston, jun., York; Bond & Barwick, Leeds.—Pet. d. Feb. 18.

**HENRY BINNING and GEORGE DOWSON**, Middleborough, Yorkshire, shipowners, March 2 and 30 at 11, Leeds: Off. Ass. Young; Sols. Cariss & Cadworth, Leeds.—Pet. d. Feb. 15.

**JOHN SLACK WARBURTON and WILLIAM STEVENSON**, Manchester, timber merchants, (trading under the firm of Warburton & Stephenson), March 7 and April 4 at 12, Manchester: Off. Ass. Rott; Sols. Bellhouse & Bond, Manchester.—Pet. f. Feb. 20.

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## THE JURIST.

LONDON, FEBRUARY 25, 1860.

SINCE an article in a previous number, (ante, p. 31), relative to the capture of private property at sea, was written, we rejoice to see that a deputation of the Manchester Chamber of Commerce has had an interview with our Premier, and, after endeavouring to impress upon him the policy of adopting their peculiar views, according to which immunity from capture during time of war ought to be allowed to the private property of the enemy at sea, has been firmly told by Lord Palmerston that the doctrines of the Manchester Chamber of Commerce are wholly inadmissible; and we think that by far the greater majority of Englishmen, who have the interests of peace and of their country at heart, will unhesitatingly confirm the opinion enunciated by Lord Palmerston.

It is, of course, in accordance with the interests of such countries as France, Russia, Austria, and perhaps Prussia, with large standing armies, and with navies inferior to our own, to introduce such a change in the system of international law as would enable them to carry on war by land, while their commerce would be safe by sea. Those and other countries, such as the United States, in fact, ask England to consent to a change of the law which would deprive her of half her strength, while they would retain their own unimpaired; for we do not hear any change proposed with reference to the mode of carrying on war by land.

It is true, that, as a kind of equivalent, it is proposed by some nations, and, above all, by the United States, that if England will consent to allow the private property of the subjects of a belligerent to be exempt from capture by armed public vessels, they will no longer employ privateers in time of war; asking, in fact, that England should in time of war give up the advantage which she now possesses, in consequence of the predominance of her naval power, and offering, in return, to give up, not any other advantage which England does not now enjoy, but one which she would in common with other nations give up—the use of privateering.

However little such proposals may be for the interests of England, rightly understood, there is, nevertheless, a small, but wealthy and influential, body of men who doubtless think that it is for their own interest to yield to such proposals as those of the United States upon this subject. "Omnia post nummos" seems to be their motto—peace at any price, save at the price of profits, the principle by which they are guided—the acquisition of enormous wealth their end.

For this purpose they will not cease to agitate and press forward every argument possibly available in support of their views. In a former number we answered all their arguments except one, which we now propose to notice. It is said that belligerents, even if they do not consider private property on land free from capture, at any rate have manifested a strong disposition to abstain from inflicting unnecessary injury upon it; and it is said that "the present practice of capturing private property at sea appears to have had its origin

in the piratical character of early navigators; and that, although during times of peace the inviolability of property at sea has long been acknowledged by all civilised countries, war is no sooner declared than the order is issued to "*seize, burn, and destroy* the maritime property of the enemy," in a spirit, as is alleged, "worthy only of the most barbarous times."

Now, if the president of the Manchester Chamber of Commerce means to assert, that upon the commencement of a war an order issues not only to *seize*, but to *burn and destroy* the private maritime property of the enemy, we think he is scarcely accurate. The usual order granting reprisals against the enemy are, we believe, similar to that issued in the late war against Russia, viz. that her Majesty's fleets and ships shall and may lawfully seize all ships and goods belonging "to the enemy" or his subjects, and "bring the same to judgment" in the Courts of Admiralty. So that the order is not quite so barbarous as the worthy president would lead us to suppose; nor is it at all likely that the commanders of our vessels or fleets would resort to such a practice, so much against their own private interests, and which would deprive them, as captors, of all hope of prize money.

With regard to the armed vessels of the enemy, we presume that even the Manchester Chamber of Commerce would not object to an order commanding our naval officers, in the event of their non-submission, "to seize, burn, and destroy them;" nor could that be stigmatised as being issued in a spirit worthy of the most barbarous times.

But to return to the distinction said to be observed during hostilities with reference to private property on land and private property at sea. We by no means agree to the reasons for its origin given by the president of the Manchester Chamber of Commerce.

The great authority of the Americans on international law—Wheaton—in discussing the right to capture the property of the enemy, begins by laying down the following proposition:—"From the moment one State is at war with another, it has, on general principles, a right to seize on *all the enemy's property*, of whatsoever kind and wheresoever found, and to appropriate the property thus taken to its own use, or to that of the captors." With this proposition we fully agree, and according to it a belligerent has the same power over the property of the enemy on land as at sea. The right, doubtless, over property on land has gradually been modified; but why? Not, we think, on grounds of morality, but because a belligerent, by insisting upon his extreme rights on land, would defeat in most cases his own objects. It is the interest of an army advancing through a hostile territory to obtain supplies in the shape of provisions from its inhabitants, shelter for itself, and freedom from attack by the non-military part of the population. An army, therefore, so long as its requisitions are complied with, and the inhabitants remain in the peaceful occupation of their former pursuits, does not in general interfere with private property.

Where, however, the whole population rises against an advancing army of a belligerent, he at once exercises his extreme rights—property is destroyed, forced contributions levied, and, in the case of resistance of

towns to capture, they are given up to be sacked. Manning, an able English writer, gives another reason for the lenity shewn by belligerents towards private property on land, which is by no means without weight. "It probably had," he observes, "its origin in its being the interest of conquerors to attempt to reconcile a vanquished nation to a change of sovereignty, according to the maxim, as old as Machiavel, that men sooner forget the death of their father than the loss of their patrimony." Now, these considerations do not in general apply to captures at sea; the enemy's resources and his revenues are thereby crippled, and the resources of the capturing belligerent increased, without any countervailing disadvantages, such as we have before seen might attend the capture of private property on land. It is true, that by captures at sea losses may fall heavily upon individual members of the hostile State; but the question to be determined is, whether such captures are not necessary to secure the object of hostilities—the bringing of the war to a satisfactory conclusion. We consider that they are, and we hope that no considerations of the private interests of a class will be allowed to interfere with the public interests of the whole community. A class which can carry on commercial pursuits in time of war, without being subjected to any of its chances, may, if the profits should be then greater, not feel so great an inclination as at present to remain at peace, and, on both sides of the Atlantic, might look with indifference upon the prolongation of hostilities in which cotton in a raw and manufactured state would be equally safe.

### Correspondence.

#### PATENTS FOR INVENTIONS.

TO THE EDITOR OF "THE JURIST."

SIR,—I am glad to find this important subject is likely to engage the attention of persons competent to deal with it. It is high time that it should. No branch, I believe, of our commercial law stands more in need of the reformer's hand; indeed, it seems not improbable that, but for some speedy and extensive change, this difficulty will be found to solve itself, and patents of all kinds be swept away as public nuisances, before a storm of popular indignation.

What the actual evils are I leave your readers to gather from the masterly paper from the hand of Mr. Grove, transferred some week or two since to your columns. An International Patent Law has been more than once upon the tapis. It is easy to see that further elements of confusion will be introduced should such a law actually be carried out.

The grand source of all this mischief lies in the impossibility of ascertaining, in the vast majority of cases, what the rights of the patentee really are. To the bulk of the manufacturing community he speaks as a man having authority, albeit his specification may contain nothing new or useful; nay, although the description of his machine or process may be the result of the poorest speculation, and he may never even have contemplated taking a single step in the practical working of his invention. Several very cruel cases have come under my notice, in which unscrupulous patentees have levied black mail upon people in a small way of business. I have known others in which audacity has been equally successful with large manufacturers, who preferred making terms with any one who could be troublesome in the way of their trade, to contesting his claims in a court of law. This fea-



ture of impudence has been exaggerated to the dimensions of caricature in a case that appeared a week or two back in connexion with the uniform of the rifle corps.

The uncertainty I have already mentioned is only as to facts. This, of course, is common to the public and the Profession. Theoretically the difficulties are greater still, and the Profession appears, until very recently, to have been divided as to the nature of the subject-matter of the grant. In a treatise on this subject I endeavoured (I believe it was then attempted for the first time) to bring the matter within the compass of a short and single definition. I can hardly flatter myself that I have imbued the Profession with the idea; but this fact is incontestable, that almost all the recent decisions in patent cases have adopted it as a fundamental axiom.

Agreeing fully, therefore, with Mr. Grove, and your correspondent of last week, as to the expediency of a change, my opinion inclines to the belief, that, to be effectual, it must be applied in a different way from that proposed by either of them. There is really no legal question of any intricacy involved in the affair—none but what any man of average intelligence can comprehend and apply. I would propose a board of scientific persons, whose whole duty it should be to report upon inventions submitted to them, and to recommend for letters-patent such inventions only as *in all probability*, (and the thing is capable of calculation within very narrow limits), *but for the applicant's exertions, would not have come into public use during the term of his patent right*. Each such recommendation might be accompanied by suggestions as to particular exceptions, and other special conditions. Of this probability the board should be the sole and decisive judges. If there were a doubt, I would give the benefit to the public.

Patents thus granted would no doubt be few, but they would be proportionately prized. In fact, they would be almost incontestably diplomas of inventive merit, instead of what they are now in too many instances, instruments of juggling and chicanery.

Mr. Webster thinks the machinery at present at the disposal of the Crown sufficient to work under improved conditions. I doubt it. With the exception of Mr. B. Woodcroft, there is, I think, no one in connexion with the office of the Great Seal who pretends to any (even general) acquaintance with the details of manufacturing art. At present, active and public-spirited as that gentleman has proved himself, it is all that he and an intelligent staff can do to print, register, and reduce to something like official order the mass of specifications that are showered in upon him. Under the system I am advocating, we might have from the same hands a really valuable annual report on the general state and prospects of manufactures.

There remains the important question of the cost of the proposed change. A return to high office fees will not, of course, be entertained. A serious diminution will be made in the law officers' official income. A department hitherto self-supporting will have to figure in the estimates.

The question for the public is, is it worth what it will cost to alter it?

J. CORYTON.

TO THE EDITOR OF "THE JURIST."

SIR,—The Chancellor of the Exchequer proposes to reduce the stamp duty on agreements from 2s. 6d. to 6d. The present duty acts, no doubt, to a considerable extent, as a prohibition, and the reduction will probably not cause any great diminution in the produce of the stamp. There is, however, another stamp to which the same reasoning applies, viz. the common deed stamp, and I would suggest that application should be made to the Chancellor of the Exchequer to reduce this also.

My experience tells me that the amount of the stamp, 1l. 15s., prevents the completion, in a legal and binding form, of a very considerable number of transactions. I would mention particularly declarations of trust, appointments, conveyances, and transfers where no money passes. Powers of attorney come within the same category.

A word from you might, perhaps, induce some influential members of the Profession to bring this matter to the notice of Mr. Gladstone, who has shewn himself very ready to accept suggestions.

I am, Sir, yours truly,

Lincoln's-Inn.

H. B. C.

## CAMBRIDGE LAW DEGREE EXAMINATIONS.

NOTICE has been given that the subjects of the Examinations for the Degree of Bachelor of Laws, to be held in December, 1861, and May, 1862, and for the Chancellor's Medal for Legal Studies, February, 1861, will be as follows:—

### LAW DEGREE EXAMINATION.—HONOURS.

Roman Law.—Commentaries of Gaius and Institutes of Justinian; Digest, book 43, tits. 1 to 23 inclusive; Cicero, Oration, "Pro Cæcina" and "Pro M. Tullio."

N. B.—The paper of questions on the Roman Law will be specially directed to the Law of Obligations.

English Law.—Blackstone's Commentaries, (any recent edition), vol. 2; Statute of Uses, 27 Hen. 8, c. 10; Sugden on Powers, vol. 1, Introd. and c. 1, "Of the Nature of Powers before and since the Statutes of Uses."

English History.—From the Reign of Henry VII to that of Elizabeth, with special reference to Hallam's Constitutional History, vol. 1, and the Statute Book.

International Law.—Absolute International Rights of State, Wheaton, part 2; The Treaty of Vienna, 1815.

### ORDINARY DEGREE.

Roman Law.—Justinian's Institutes, books 1 and 2, with Sanders's Notes and Commentary; Digest, book 1, tit. 2; Ulpian's Fragments.

English Law.—Blackstone, (Warren), cc. 3 to 15, and 43 to the end of the book.

English History.—Hallam's Constitutional History, vol. 2.

### CHANCELLOR'S MEDAL.

Roman Law.—The Law of Actions, as exhibited by Gaius and Justinian, with the explanations of Mackelday, Lindley, and Sanders.

English Law.—Best on Evidence, Introd. and part 1, (in the 3rd edition, book 1), containing the general view of the English Law of Evidence, and the History of its Rise and Progress; the Office, Jurisdiction, and Duties of Justices of the Peace. (See Burn's Justice, art. "Justice of the Peace," and Paley on Convictions, part 1, c. 1).

English History.—The Reign of Charles I, (Hallam and Guizot); State Trial of Lord Stafford.

International Law.—Conflict of Laws as to Jurisdiction and Remedies. Conflict of Laws as to Evidence and Proofs. Conflict of Laws as to Foreign Judgments. Story on the Conflict of Laws, cc. 14, 15, 17. Westlake on Private International Law, cc. 5, 12, 14.

The Right Hon. Sir William Erle, Knt., Lord Chief Justice of her Majesty's Court of Common Pleas at Westminster, has appointed the following gentlemen to be Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women:—Henry Jenner Hillier, of Grantham, near Marlborough, Wilts; and for the county of Wilts; and William Wilkinson Bruntson, of Hartlepool, Durham, in and for the county of Durham.

## BILL IN PROGRESS.

## TRADING COMPANIES, &amp;c. BILL.

(Concluded from p. 63).

107. Arrested member may apply to court for his discharge. 21 Vict. c. 14, s. 12.
108. Power of court to make calls. 20 Vict. c. 47, s. 82.
109. Court may exclude creditors not proving within a certain time. 20 Vict. c. 47, s. 84.
110. Court to adjust rights of contributories. 20 Vict. c. 47, s. 86.
111. Court to order costs. 20 Vict. c. 47, s. 87.
112. Dissolution of company. 20 Vict. c. 47, s. 93.
113. Registrar to make minute of dissolution of company. 20 Vict. c. 47, s. 94.
114. Penalty on not reporting dissolution of company. 21 Vict. c. 14, s. 20.
115. Petition to be *lis pendens*. 12 Vict. c. 45, s. 125.
116. Power of court to act in chambers.
117. Power to enforce orders. 20 Vict. c. 47, s. 60.
118. Power to order contributories in Scotland to pay calls. 22 Vict. c. 60, s. 5.
119. Order made in England to be enforced in Ireland and Scotland. 22 Vict. c. 60, s. 12.
120. Mode of dealing with orders to be enforced by other courts. 22 Vict. c. 60, s. 12.
121. Appeals from orders. 12 Vict. c. 45, ss. 101, 102; 13 Vict. c. 108, s. 33.
122. Judicial notice to be taken of signature of officers. 12 Vict. c. 45, s. 114.
123. Special commissioners for receiving evidence. 20 Vict. c. 47, s. 101.
124. Court may order the examination of persons in Scotland. 12 & 13 Vict. c. 108, s. 21.
125. Affidavits, &c. may be sworn in Ireland, Scotland, or the colonies, before any competent court or person. 13 Vict. c. 108, s. 24.
126. Circumstances under which company may be wound up voluntarily. 20 Vict. c. 47, s. 102.
127. Whenever a company is wound up voluntarily, the company shall, from the date of the commencement of such winding up, cease to carry on its business, except in so far as may be required for the beneficial winding up thereof; and all transfers of shares, or alteration in the status of the members of the company, taking place after the commencement of such winding up, shall be void; but its corporate state and all its corporate powers shall, notwithstanding it is otherwise provided by its regulations, continue until the affairs of the company are wound up.
128. A resolution shall be deemed to be extraordinary whenever a resolution has been passed by a majority of not less than three-fourths of the votes of such members of the company for the time being, entitled, according to the regulations of the company, to vote, as may be present, in person or by proxy, (in cases where, by the regulations of the company, proxies are allowed), at any meeting of which notice specifying the intention to propose such resolution has been duly given. At any such meeting, unless a poll is demanded by at least five members, a declaration of the chairman that the resolution has been carried shall be deemed conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the same. Notice of any meeting shall, for the purposes of this section, be deemed to be duly given, and the meeting to be duly held, whenever such notice is given and meeting held in manner prescribed by the regulations of the company. In computing the majority under this section, reference shall be had to the number of votes to which each member is entitled by the regulations of the company.
129. For the purpose of an extraordinary resolution, in default of any regulations as to voting, every member shall have one vote; and in default of any regulations as to summoning general meetings, a meeting shall be held to be duly summoned of which seven days' notice in writing has been served on every member in manner in which notices are required to be served by the third schedule hereto, or by any provisions that may be substituted for the provisions as to notices in the said schedule; and in default of any regulation as to the persons to summon meetings, five members shall be competent to summon the same; and in

default of any regulations as to who is to be chairman of such meeting, it shall be competent for any person elected by the members present to preside.

130. Notice of resolution to wind up voluntarily. 20 Vict. c. 47, s. 103.
131. Commencement of voluntary winding up. 20 Vict. c. 47, s. 64.
132. Consequences of voluntary winding up. 20 Vict. c. 47, s. 104.
133. Effect of winding up on share capital of company limited by guarantee.
134. Power of company to delegate authority to appoint liquidators.
135. Any arrangement entered into between a company about to be wound up voluntarily, or in the course of being wound up voluntarily, and its creditors, shall be binding on the company, if sanctioned by an extraordinary resolution, and on the creditors, if acceded to by three-fourths in number and value of the creditors, subject to such right of appeal as is hereinafter mentioned.
136. Any creditor or contributory of a company that has in manner aforesaid entered into any arrangement with its creditors may, within three weeks from the date of the completion of such arrangement, appeal to the court, by petition, or in such other manner as the court directs, against such arrangement, and the court may thereupon, as it thinks just, amend, vary, or confirm the same.
137. Power for liquidators or contributories in voluntary winding up to apply to court. 22 Vict. c. 60, s. 14.
138. Power of liquidators to call general meeting. 21 Vict. c. 14, s. 19.
139. Power to fill up vacancy in liquidators. 22 Vict. c. 60, s. 15.
140. Power of court to appoint liquidators.
141. Liquidators, on conclusion of winding up, to make up an account. 20 Vict. c. 47, s. 104.
142. Liquidators to report meeting to registrar.
143. Costs of voluntary liquidation. 20 Vict. c. 47, s. 104.
144. Saving of rights of creditors. 20 Vict. c. 47, s. 105.
145. Power of court to adopt proceedings of voluntary winding up. 21 Vict. c. 14, s. 19.
- Winding up subject to the Supervision of the Court.*
146. Power of court, on application, to direct winding up, subject to supervision. 21 Vict. c. 14, s. 19.
147. Petition for winding up, subject to supervision. 22 Vict. c. 60, s. 2.
148. Court may have regard to wishes of creditors.
149. Power to court to appoint additional liquidators in winding up, subject to supervision. 22 Vict. c. 50, s. 23.
150. Effect of order of court for winding up, subject to supervision. 22 Vict. c. 60, s. 4.
151. Appointment in certain cases of voluntary liquidators to office of official liquidators. 22 Vict. c. 60, s. 8.
- Miscellaneous Provisions.*
152. Dispositions after the commencement of the winding up avoided. 20 Vict. c. 47, s. 73.
153. The books of the company to be evidence. 20 Vict. c. 47, s. 81.
154. Inspection of books. 22 Vict. c. 60, s. 7.
155. Power of assignee to sue.
156. Debts of all descriptions to be proved. 12 & 13 Vict. c. 106, s. 178.
157. General scheme of liquidation may be sanctioned. 22 Vict. c. 60, s. 18.
158. Power to compromise. 22 Vict. c. 60, s. 19.
159. Power for liquidators to accept shares, &c. as a consideration for sale of property of company. 21 Vict. c. 14, s. 17.
160. Price to be paid to dissentient member to be determined by agreement or arbitration.
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162. Balances proveable against bankrupts' or insolvents' estates. 22 Vict. c. 60, s. 18.
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164. Fraudulent preference. 20 Vict. c. 47, s. 78.
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166. Penalty on falsification of books. 20 Vict. c. 47, s. 79.

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**CERTIFICATES.**

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*Robert Oakley Wilkins*, Appledram, near Chichester, Sussex, corn dealer, March 13 at 2, London.—*Frederick Wm. Thomas*, Water-lane, Great Tower-street, City, commission agent, March 14 at 2, London.—*George Gully*, Cardiff, Glamorganshire, shipbroker, March 20 at 11, Bristol.—*Samuel Russell*, West Hartlepool, Durham, builder, March 13 at 12, Newcastle-upon-Tyne.—*Joseph Porter*, *Joseph Walmsley Porter*, *Thomas Walmsley Porter*, and *Robert Rogers*, Salford, Lancashire, screw-bolt manufacturers, March 14 at 12, Manchester.—*John Reynolds*, Manchester, yarn agent, March 14 at 12, Manchester.—*Wm. Jackson*, Kidderminster, Worcestershire, victualler, March 16 at 11, Birmingham.

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In consequence of the great importance, whether considered in their social, legal, or moral aspects, which these Courts have obtained, and the increasing interest now felt in their proceedings by the Profession and the public at large, it is proposed to publish, on the first of every month during their sittings, a new Law Serial, containing, as far as practicable, the cases decided up to the day of publication.

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## GAZETTES.—FRIDAY, Feb. 24.

## BANKRUPTS.

GEORGE READ, Portsmouth, Hampshire, and Southampton, cattle dealer, March 9 and April 13 at 12, London: Off. Ass. Whitmore; Sols. Smith & Son, 16, Southampton-street, Bloomsbury.—Pet. f. Feb. 22.

CHARLES HENRY CHARLTON, Garden-court, Temple, Middlesex, solicitor, March 2 and April 13 at half-past 12, London: Off. Ass. Cannan; Sol. Voules, 16, Gresham-street, London.—Pet. f. Feb. 15.

JOHN HENRY COHN, Riches-court, Lime-street, City, East India and general merchant, March 7 at half-past 1, and April 4 at 1, London: Off. Ass. Graham; Sol. Elmslie, 10, Lombard-street, London.—Pet. f. Feb. 6.

JOHN JAMES GUMMOE, St. Austell, Cornwall, auctioneer, March 9 and 28 at 12, Exeter: Off. Ass. Hirtzel; Sols. Bishop & Wreford, Fowey, Cornwall; Head & Venn, Exeter.—Pet. f. Feb. 21.

HENRY STEPHENS, Exeter, innkeeper, March 9 and 28 at 12, Exeter: Off. Ass. Hirtzel; Sols. Turner & Hirtzel, Exeter.—Pet. f. Feb. 21.

SYLVESTER MATISON, Liverpool, butcher, March 6 and April 2 at 11, Liverpool: Off. Ass. Cazenove; Sols. Snowball & Copeman, 16, Castle-street.—Pet. f. Feb. 22.

JOSEPH WALL and JOSEPH BUXTON, Manchester, wholesale grocers, (carrying on business under the style of Wall, Buxton, & Co.), March 6 and April 8 at 12, Manchester: Off. Ass. Fraser; Sol. Lamb, Manchester.—Pet. f. Dec. 24.

## MEETINGS.

*George Nash*, Leighton Buzzard, Bedfordshire, bricklayer, March 5 at half-past 11, London, last ex.—*Thomas Barnes*, Newman-street, Oxford-street, Middlesex, and Upper Stamford-street, Blackfriars-road, Surrey, jeweller, March 7 at 1, London, last ex.—*Eugene Duval*, New Bond-street, Middlesex, milliner, March 7 at half-past 1, London, aud. ac.—*George Tucker*, *George Edwin Tucker*, *Charles Frederick Tucker*, and *Douglas Alfred Tucker*, John-street, Bedford-row, Middlesex, makers of advertising agents, March 8 at half-past 1, London, aud. ac.—*Edmond Smith*, Russell-street, Bermondsey, Surrey, woolstapler, March 9 at 12, London, aud. ac.; March 16 at 1, div.—*Thomas Jackson*, Cannon-street, City, contractor, March 13 at 12, London, aud. ac.—*Henry Cottrell*, Bristol, and Easton St. George, Gloucestershire, glue manufacturer, March 22 at 11, Bristol, aud. ac.—*Robert M. Mellis*, Manchester, merchant, March 7 at 12, Manchester, aud. ac.—*Joshua Binns*, Openshaw, near Manchester, soap manufacturer, March 9 at 12, Manchester, aud. ac.—*Rosland Parkinson*, Blackburn, Lancashire, innkeeper, March 8 at 12, Manchester, aud. ac.—*Joseph Adshead*, Manchester, wholesale hosier, March 9 at 12, Manchester, aud. ac.—*Edwin Hodges*, Shrewsbury, Shropshire, boot and shoe dealer, March 15 at 11, Birmingham, aud. ac.; March 23 at 11, div.—*Hazekiah Wingad*, Nettleham, Lincolnshire, tailor, March 14 at 12, Kingston-upon-Hull, aud. ac.—*Matthew Brown* and *John Brown*, Bradford, Yorkshire, woolstaplers, March 26 at 11, Leeds, aud. ac.; March 27 at 11, div.—*George C. Bingham*, Nottingham, boot manufacturer, March 22 at 11, Nottingham, aud. ac. and div.—*John Brown*, Nottingham, clothier, March 22 at 11, Nottingham, aud. ac. and div.—*Samuel W. Anthony*, Liverpool, commission merchant, March 20 at 11, Liverpool, div.—*Henry Shelton*, *John Hill*, and *Rudolph Steinmann*, Liverpool and Kingston-upon-Hull, commission merchants, March 20 at 11, Liverpool, div.

## CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

*Wm. Dray*, Farnham, Kent, farmer, March 16 at 11, London.—*George Sully*, (and not *Gully*, as before advertised), Cardiff, Glamorganshire, shipbroker, March 20 at 11, Bristol.—*George Ellis*, Sheffield, Yorkshire, baker, March 17 at 10, Sheffield.—*George J. Reid*, Manchester, merchant, March 16 at 12, Manchester.

To be granted, unless an Appeal be duly entered.

*Robert Harmon*, Littlewick, White Waltham, Berkshire, corn dealer.—*Isaac Davis*, Bristol, cigar manufacturer.—*Septimus F. Martyn*, Bishop Auckland, Durham, draper.

## PETITION ANNULLED.

*Robert Daplyn*, Diss, Norfolk, grocer.

## SCOTCH SEQUESTRATIONS.

*John Blair*, Linlithgow, Renfrewshire, clothier.  
—*Edward Bowen*, Glasgow, ironmonger.

## TUESDAY, Feb. 23.

## BANKRUPTS.

DAVID CAHN, Leadenhall-street, City, merchant, March 9 at 2, and April 13 at 1, London: Off. Ass. Whitmore; Sol. Wells, 47, Moorgate-street.—Pet. f. Feb. 23.

EMMA NEWSTEAD, Bedford-street, Bedford-row, Holborn, Middlesex, licensed victualler, March 14 at 1, and April 11 at 12, London: Off. Ass. Graham; Sols. Blakeley & Stone, 5, Barge-yard, Bucklersbury.—Pet. f. Feb. 27.

WILLIAM MULLETT, Brookland, near Romney, Kent, grocer, March 9 at half-past 12, and April 13 at half-past 11, London: Off. Ass. Cannan; Sols. Morgan, Maidstone; Doyle, 2, Verulam-buildings, Gray's-inn.—Pet. f. Feb. 24.

JOHN MINTON the younger, New Bond-street, Middlesex, manufacturer of materials for wax flowers, March 10 at 12, and April 16 at 11, London: Off. Ass. Pennell; Sols. J. & J. H. Linklater & Co., 7, Walbrook, City.—Pet. f. Feb. 24.

JOSEPH ALLISON CRANE, St. John, Province of New Brunswick, British North America, now resident at 7, King-street, Cheapside, London, merchant, March 13 at half-past 2, and April 17 at 1, London: Off. Ass. Edwards; Sols. Sudlow & Co., 3, Bedford-row.—Pet. f. Feb. 25.

JAMES LANE, Kingsland-place, Kingsland-road, Middlesex, and Thredneedle-street, City, mining sharebroker, March 13 at half-past 2, and April 17 at 1, London: Off. Ass. Edwards; Sol. Snell, 15, St. Swithin's-lane.—Pet. f. Feb. 27.

JOHN SLATER, Small Heath, near Birmingham, retail brewer, March 15 and April 5 at 11, Birmingham: Off. Ass. Kinnear; Sols. James & Knight, Birmingham.—Pet. d. Feb. 25.

HENRY CLEMERSON, Loughborough, Leicestershire, ironmonger, March 13 and April 8 at half-past 11, Nottingham: Off. Ass. Harris; Sol. Perkins, Loughborough.—Pet. d. Feb. 25.

THOMAS CLARK, Bradford, Yorkshire, paper merchant, March 22 and April 20 at 11, Leeds: Off. Ass. Young; Sols. Duckit, Bradford; Bond & Barwick, Leeds.—Pet. d. Feb. 27.

JOHN HERD, Liverpool, corn merchant, March 15 and April 2 at 11, Liverpool: Off. Ass. Morgan; Sol. Brabner, Liverpool.—Pet. f. Feb. 24.

JONATHAN BRIGNALL, Manchester, dyer, March 15 and 29 at 12, Manchester: Off. Ass. Fraser; Sol. Roberts, Manchester.—Pet. f. Feb. 23.

JOHN RODGERS, North Shields, Northumberland, draper, March 7 and 30 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sol. Story, Newcastle-upon-Tyne.—Pet. f. Feb. 11.

## MEETINGS.

*Edwin Hawker*, Southampton, homoeopathic chemist, March 21 at 11, London, last ex. and div.—*Joseph Bentley* the elder and *Joseph Bentley* the younger, Liverpool, gunmakers, March 9 at 11, Liverpool, aud. ac.; March 20 at 11, div.—*Robert Busby*, Birmingham, builder, March 15 at 11, Birmingham, aud. ac.—*William John*, Bridgwater, Somersetshire, hackneyman, March 12 at 12, Exeter, aud. ac.; March 26 at 12, div.—*Frederic Every*, Exeter, scrivener, March 12 at 12, Exeter, aud. ac.; March 26 at 12, div.—*Tristram Powning*, Truro, Cornwall, grocer, March 21 at 12, Exeter, aud. ac.; March 28 at 12, div.—*John David Greenoay*, Taunton, Somersetshire, draper, March 12 at 12, Exeter, aud. ac.; March 26 at 12, div.—*James Warren*, East Stonehouse, Devonshire, licensed victualler, March 19 at 1, Plymouth, aud. ac.—*Thomas Marshall*, Plymouth, Devonshire, builder, March 19 at 1, Plymouth, aud. ac.—*John Lockhart Morton*, Finch-lane, City, merchant, March 22 at half-past 11, London, div.—*Henry Hobbs* and *George Tilley*, St. George's-wharf, Cambridge-street, Old St. Pancras-road, and Southall, Middlesex, and Victoria-wharf, Earl-street, Blackfriars, London, brickmakers, March 21 at half-

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## THE JURIST.

LONDON, MARCH 3, 1860.

IN 1850 her Majesty issued a commission to "Sir John Jervis, A. G., Samuel Martin, Esq., Q. C., William Henry Walton, Esq., barrister-at-law, and one of the Masters of the Court of Exchequer, George William Bramwell, Esq., barrister-at-law, and James Shaw Willes, Esq., barrister-at-law," to inquire and ascertain whether any and what alterations and amendments could be made for the better administration of justice in "the Process, Practice, and System of Pleading in the Superior Courts of Common Law." A few months after the issuing of the commission, Sir John Jervis was promoted to the Chief Justiceship of the Common Pleas, and in his place was added Sir Alexander Cockburn\*.

The first Report was presented in 1851, the second in 1853, and the third and final Report has just been presented and printed. The results of the first two Reports are well known to our readers: the Common-law Procedure Acts of 1852 and 1854, together with important rules and forms, have produced a complete, simple, and admirable code, both of practice and of pleading at common law. The commissioners were thoroughly masters of their subject, and brought to

\* It should also be stated, that upon the resignation of Edward Lawes, Esq., barrister-at-law, in December, 1851, Henry Thurston Holland, Esq., barrister-at-law, was appointed secretary, and has filled that office to the present time.

their work not only full knowledge, but zeal and resolution.

With unsparing yet judicious hands they lopped off the excrescences of ages; and while others were talking of magnificent, but shadowy and impracticable, schemes of legal reform, they have shewn how much good may be effected by quiet sensible labour in the right direction. The benefits arising from their most valuable suggestions are being daily experienced by the public to an extent which can be appreciated only by those who are constantly present in the common-law courts; and after the test of seven years, we believe that there is not one of the amendments proposed by the commissioners, and carried out by the Legislature, which the public or the Profession would desire to see repealed.

The commissioners justly say, in their present Report, that at the time of the issuing of the commission in 1850—

"Much dissatisfaction prevailed among the practitioners and suitors. It was complained, and with justice, that the proceedings in actions, though undefended, of which the great majority of cases consists, were unnecessarily tedious and costly. It was also a subject of deep and just dissatisfaction that the time of the Courts was frequently occupied, and expense and delay occasioned, by frivolous arguments and discussions upon points merely of technical form, altogether irrelevant to the merits. Justice was frequently defeated, in trials at Nisi Prius, in consequence of variances between the pleadings and the evidence; or of objections to the



stamp upon documents; or from want of authority to adjourn the trial when an unforeseen difficulty arose; or from other circumstances which occasionally, after very great trouble and expense had been incurred, rendered the trial wholly fruitless, and left the real question in controversy between the parties undecided."

And when reviewing the new system, of which they are the authors, they are enabled to say—

"As regards the amendments and alterations in the procedure in actions at law, we are happy to be able to report, that they have rendered the procedure simple, economical, and speedy, and have had the effect of limiting the costs to the expenses of the necessary and essential steps in a cause.

"The extent of the reform effected will be exemplified by the fact, that in nine months of the years 1852-3, (the first during which the new system was partially introduced), as compared with the same period in the preceding year, by the abolition of proceedings of a formal character, all involving considerable expense, reported by us to be unnecessary, and thereupon abrogated, the rules granted by the three Courts were during that time reduced in number from 38,009 to 3081, and this notwithstanding an increase in the number of writs issued.

"The technicalities which brought so much discredit on our jurisprudence have now disappeared, and the Courts, owing to the improved system of pleading and procedure, and the large additional power of amendment, are occupied in adjudicating upon the substantial merits of the cases in litigation, while, from the operation of the same causes, it very rarely occurs in trials at Nisi Prius that the real question in controversy is not decided by the jury."

Among the suggestions made in the present Report are the following:—

That, in order to avoid the difficulties which sometimes arise with respect to the joinder of parties to actions, plaintiffs should be allowed to bring their actions in the names of all the persons in whom the legal right may be supposed to exist, leaving it to the Court to give judgment in favour of the persons who may be found to be entitled.

That the 19 & 20 Vict. c. 108, ss. 63-68, should be extended to all cases of replevin, (in order to prevent any question as to the construction of those sections), and that a plaintiff in replevin should be at liberty to pay money into court in answer to an avowry.

That actions of dower, writ of right of dower, and quare impedit, should be commenced by writ of summons issuing out of the Court of Common Pleas, instead of by original writ out of Chancery, and that the proceedings therein should be assimilated to those in personal actions.

That in actions on bonds the defendant should be allowed to pay money into court; and also in detinue, by leave of the court or judge.

That in attaching debts the judge should have discretion to set off cross claims, and also to refuse to interfere where the costs of the proceedings would, in his opinion, bear so large a proportion to the amount to be recovered as to make the remedy practically worthless or vexatious. That the garnishee, if he bona fide doubts

who is entitled to the debt, should be allowed to interplead.

That the statutes relating to costs should be revised and consolidated, retaining the leading principles which now regulate the right to costs; but that whenever a plaintiff in any action recovers less than 5*l.* damages, it should be in the discretion of the judge to allow or disallow his costs.

The learned commissioners invite renewed attention to their former observations respecting the constitution of juries, more especially that part which relates to securing the attendance on common juries of the class of persons who now serve exclusively on special juries, "with a view to the improvement of the former by the admixture of persons of higher education and intelligence." It is stated that the higher class are legally liable to serve on common juries, although not required to do so in practice.

The last and most important suggestion tends to the fusion of law and equity. In reviewing the partial legislative adoption of their Second Report with reference to this subject the commissioners say—"In a second branch of our Second Report we considered the necessity of enlarging and expanding the procedure of the common-law Courts, so as not only to invest them with powers previously exercised by Courts of equity alone, by way of assistance to the Courts of common law in the progress of an action, called 'auxiliary equity,' but also to enable them to exercise the powers of Courts of equity for the protection of legal, as distinguished from equitable, rights, and for the enforcing of legal obligations. We strongly urged that these powers should be conferred on the Courts of common law, on the ground that every Court ought to possess within itself the means of administering complete justice within the scope of its jurisdiction; and that the Courts of common law, to be able satisfactorily to administer justice, ought to possess, in all matters within their jurisdiction, the power to give all the redress necessary to protect and vindicate common-law rights, and to prevent wrongs, whether existing, or likely to happen unless prevented. . . . Effect was given to our recommendations as to conferring on the Courts of common law the powers previously exercised by the Courts of equity alone, as auxiliary to the Courts of law. But the Legislature abstained from enlarging the powers of the latter Courts, so as to enable them to protect common-law rights from threatened invasion, or to enforce the specific performance of common-law obligations."

Then come the suggestions themselves, which are of so much interest to our readers that we cannot do better than present them in the language of the learned commissioners:—

"We proceed to the second part of the subject, namely, the powers hitherto exercised by Courts of equity alone, which we have proposed should be conferred upon Courts of common law. The experience of the five years which have elapsed since the passing of the act of 1854 has strongly confirmed the views which we sought to enforce in our last Report; and we cannot but regret the partial manner in which our recommendations were carried into effect by the Legislature. Upon this subject, in addition to what we formerly

urged, we beg to submit for consideration the following observations:—

“ Besides the exclusive jurisdiction which the Court of Chancery has from time to time acquired over subjects which either never were within the scope of the common law, or have ceased to be so from desuetude or express enactment, that Court has also exercised in various instances powers over subjects within the jurisdiction of the common-law Courts, either in aid of those Courts, as by discovery, or by way of prevention of a threatened injury, as by injunction against a wrong or against an apprehended unjust litigation, or by way of specific performance, or by way of restraint of the proceedings of the common-law Courts, where the prosecution of actions, and even the execution of judgments, have been stayed by injunction, upon the ground that there was something in the proceedings contrary to the law administered in the Court of Chancery, technically called ‘equity.’ We desire to call attention to the points in which the two jurisdictions at present thus interfere, and are dependant one upon the other.

“ With that part of the Chancery jurisdiction which deals with subjects not within the cognisance of the common-law Courts it is no part of our duty to deal, because it does not interfere with the jurisdiction or procedure of the common-law Courts as at present constituted. It is with that part of the Chancery jurisdiction which undertakes to aid the proceedings of common-law Courts, or to furnish a better remedy, or to control and restrain their proceedings, that we are concerned; because, in our opinion, the relation of the Courts to one another is, in respect of such jurisdiction, anomalous and absurd.

“ The auxiliary power of the Court of Chancery to compel discovery in aid of an action or defence in a common-law court has already, by the Common-law Procedure Act of 1854, been conferred upon the Courts of common law. No practical difficulty has been experienced in the exercise of this jurisdiction. In cases where discovery must previously have been sought in the Court of Chancery it has, since the act of 1854, been speedily obtained at judges’ chambers at a comparatively trifling expense.

“ That part of the jurisdiction of the Court of Chancery which relates to protection against threatened and impending injury deals, to a great extent, with subjects which are within the general jurisdiction of the Courts of common law. It is founded upon the principle of giving a more complete remedy by restraining the commission of injuries, in respect of which the Courts of common law can only award damages. We proceed to consider this subject with reference to the various remedies in their order.

“ First, as to the power of restraining, by injunction, threatened and impending injuries. Upon this subject we have already, in our Second Report, stated at large the opinion of the former Common-law Commissioners and our own. Suffice it now to say, that, for the reasons there stated, Courts of common law ought equally to have power to protect legal rights from violation, and to give damages for actual injury. It often happens that both compensation in damages and protection are required in order to afford justice; and in such cases, where immediate protection is necessary, no

complete remedy can at present be obtained, except by resorting to the Court of Chancery. This arises from the circumstance that there is no provision for issuing an injunction from a common-law court in case of threatened injury. It is necessary, as the law at present stands, to wait until a wrongful act has actually been commenced, so that an action for damages may be maintained, before application can be made for an injunction to a Court of common law, whereas the danger of such an injury is enough to found the jurisdiction of the Court of Chancery. This seems unreasonable, when it is considered that the right threatened to be violated exists at the common law, and that in case of actual injury redress is given in a common-law court, and not in the Court of Chancery, (unless it be incidentally under the act 21 & 22 Vict. c. 27), and that after the wrong has actually commenced an injunction may be obtained in a common-law court against its repetition or continuance, or the committal of an injury of a like kind; and yet that, in case of threatened and impending injury to a similar right, it is necessary to resort to the Court of Chancery. This defect in the jurisdiction of the common-law Courts, which is the more striking when it is considered that the Court of Chancery often declines to interfere until after the right has been established at law, ought, we think, at once to be remedied. The reasons for doing so are shortly as follows:—The rights in respect of which the remedy proposed is to be given are recognised in courts of common law, which are instituted for the purpose of protecting and vindicating them: the complete enjoyment of such rights can only be obtained through the means of injunction, by which the violation of them is prohibited and prevented: damages in many cases afford but imperfect redress: in practice, the resort for protection by injunction to a court different from that in which the right, if in dispute, is, and ordinarily must be, tried and established, necessitates two suits, instead of one: lastly, to give the power to the common-law Courts in all cases of common-law rights will be to restore an ancient jurisdiction in an improved and more efficient form.

“ The procedure for this purpose may be at once simple and effective, namely, by application to the court or a judge for an injunction. If the case be such that the recovery of damages would be an inadequate or inconvenient remedy, the injunction may be ordered to issue forthwith *ex parte*, subject, of course, to an application by the opposite party to dissolve it. It should be in the discretion of the court or judge whether the injunction should issue in the first instance, or whether only a rule or summons to shew cause should be granted.

“ Upon motion to quash the injunction, or on the hearing of the rule or summons to issue it, the court or judge ought to have power either to decide the matter summarily, or to direct an action, or issue, or a special case, and to impose such terms as to keeping an account or otherwise, and to make such order as to the costs of the proceedings, as may be just.

“ This power ought to be conferred in all cases of common-law rights in which an injunction might be obtained in the Court of Chancery.

“ In an action involving the question of injunction, brought or continued under the direction of the court

or a judge, it should not be necessary to claim an injunction in the declaration, unless directed by the judge; and in such an action not so brought the party injured ought to be at liberty, as at present, to claim an injunction, if he think proper. The provisions of the 82nd section of the Common-law Procedure Act of 1854 ought to be modified, so as to be applicable to the new writ.

"The power of issuing injunctions by the common-law Courts is at present confined to actions in which some breach of contract or duty is complained of, and cannot be exercised for the protection of property the right to which is in litigation. It cannot, for instance, be exercised in the action of ejectment, even to prevent irreparable waste; nor in case of detainue, to prevent the defendant from making away with the goods which may be specifically recovered. This defect in the jurisdiction should be supplied by extending the power of issuing injunctions, so as to prevent injury to or the making away with property, in actions in which the title thereto is in dispute.

"Another measure of protection at present afforded by the Court of Chancery consists in ordering the delivering up of documents which, upon the face of them, appear sufficient to give the holder a right of action at common law, but which, by reason of circumstances which might be set up as a defence if an action were brought, ought not to be made available. In such a case, the danger that by lapse of time evidence of the defence may be lost, and so the instrument may be unjustly enforced, is considered as constituting a right in the party apparently charged by the instrument, unless disabled by some act of his own, to have it given up and cancelled, and so to have the claim set at rest. This power may well be given to the Courts of common law in respect of common-law claims and defences. And in cases in which only a part of the amount appearing to be due on the instrument is in fact due, an offer to pay such part, and a payment of the amount into court, to abide such order as the Court may make, ought to be considered equivalent to actual payment before proceedings. This may be done either by action or by summary application to the Court, as may be thought most advisable.

"Under the same head of protection against anticipated injury may be classed the proceedings in interpleader, which we now proceed to consider.

"The principle of interpleader is this—that a person having, without any fault on his part, the possession of property in which he claims no interest, and which is claimed by two or more adverse parties, whose alleged titles have a common origin, is entitled to be protected from the necessity of litigating the question of property in which he has no concern, upon giving up the subject-matter in dispute to be dealt with under the direction of the Court, which then determines the question in a proceeding between the adverse claimants. Before the stat. 1 & 2 Will. 4, c. 58, the remedy existed in the common-law courts in one form of proceeding only, namely, the action of detainue. One of the last instances, if not the last, in which it was resorted to, was in the case of *Land v. Lord North*, (4 Dougl. 266). The statute referred to, however, gave jurisdiction to the common-law Courts in cases of action brought by one of

the claimants against the holder of the property. It also gave a new power to relieve sheriffs against the necessity of litigating adverse claims made to goods taken under an execution. In this latter case the Court of Chancery, before the statute, declined to exercise jurisdiction, for the alleged reason, that if the sheriff had made a wrongful seizure, he ought not to be relieved; while, if he had made a rightful one, there was no occasion for interfering. And it may be doubted whether that Court will assume jurisdiction since the statute. (See *Tufton v. Harding*, Dec. 21, 1859, before Sir R. T. Kindersley, V. C.) The jurisdiction conferred upon the common-law Courts in such cases has proved highly beneficial. In some particulars, however, it requires extension and amendment.

"With respect to both kinds of interpleader proceedings, difficulties have arisen where the claim is at present capable of being enforced in the Court of Chancery only, and is called equitable. In respect to such claims Courts of common law have at present no jurisdiction, and the consequence has been, that great inconvenience has arisen in the execution of the Interpleader Act. To enable the Courts to do complete justice in such cases their jurisdiction ought to be extended to all claims, whether legal or equitable, where an action has been brought in respect of a common-law claim within the former branch of the statute, or there has been a seizure in execution within the latter. In case of interpleader for relief of sheriffs, jurisdiction ought to be given to the common-law Courts, even though the claim or claims be all equitable. The proceedings upon such a claim may be in the same form as those in the case of a conditional defence upon equitable grounds, which will be mentioned in a subsequent part of this Report.

"In interpleader, after action brought by one of the claimants, an amendment is also advisable. The course of decision upon the construction of this branch of the statute has usually followed that of the decisions in Chancery, which, amongst other exceptions to this jurisdiction, appear to have established, that relief will not be given when the titles of the claimants have not a common origin, but are adverse to and independent of one another. This exception, of which the alleged reason is not very obvious, has no place in interpleader proceedings for the relief of sheriffs, and we see no good reason for its existence in any case of interpleader in the common-law courts. To take the common case of a wharfinger or warehouseman seeking relief against adverse claimants, the applicant has, generally speaking, no information as to the nature of their alleged titles; and yet it is clearly just, that, whatever that may be, he ought not to be at the expense and risk of determining who is in the right, in a contest in which he has no interest whatsoever, except it be to hand over the property in dispute to the rightful owner. We recommend that interpleader should be allowed to all persons not falling within the class at present estopped from interpleading, whether the adverse claims have a common origin or not.

"Interpleader for the relief of sheriffs admits of further improvement. It often happens, that where a sheriff has seized goods in execution a claim is made to them under a bill of sale to secure an amount much

less than the value of the goods, and the goods, if sold, would be sufficient to satisfy both the execution and the bill of sale creditor. In such cases great difficulty arises. The property of the goods is entirely out of the debtor, and in the bill of sale creditor. The former has a right to the goods upon paying off the bill of sale, and that right ought to be available to the execution creditor. The bill of sale creditor has a right to the possession of the goods for the purpose only of satisfying his debt; and he ought not, provided his own debt is first satisfied, to be allowed to stand in the way of the execution creditor, by objecting to a sale by the sheriff. There are other similar cases in which the claimant is entitled to the goods only to secure a debt. The judge ought to have power, in all cases where the right of the claimant is only by way of security for a debt, to direct a sale, and the application of the proceeds, in case of a surplus, to satisfy the execution, upon such terms, as to payment of the secured debt or not, and otherwise, as the judge may think fit.

"The jurisdiction in interpleader cases ought also to be extended in the following particular. It occasionally happens that the execution creditor and the claimant agree to leave the matter to the decision of the judge before whom the summons is heard, without requiring an issue. When points of law only are involved, this course saves expense and delay. Even where questions of fact are involved, now that the parties and their witnesses can be summoned and examined before the judge, it not unfrequently happens that the judge, by consent, disposes of the case. Sometimes, however, even in cases of small amount, one of the parties insists upon the trial of an issue, at a greater expense to both parties than the amount in dispute. In cases of this kind it is obviously for the advantage of all that the judge should have the power of deciding summarily, and so preventing needless expense. We think this power should be given to the judge, to be exercised if he thinks proper.

"We would further recommend, that in all cases where the question is one of law, the facts not being disputed, the judge should be at liberty to decide the question without an issue, and, if necessary, to direct a special case for the opinion of the Court.

"We pass on to the remedy of specific performance for enforcing the actual fulfilment of contracts, the breach of which cannot be compensated by mere damages. On this subject we have already, in our Second Report, (p. 42), expressed our opinion that it ought to be added to the powers of the common-law Courts, at least in all cases in which a breach of the contract can now be redressed in those courts by an action for damages, and we pointed out the form of proceeding in which such remedy could be administered. We will not repeat what we then stated to be our opinion upon this subject, but we think it right to say that that opinion remains unaltered.

"We next proceed to consider the interference of the Court of Chancery, upon equitable grounds, with the proceedings in common-law courts, as a subject to which particular attention ought to be directed. Notwithstanding recent legislation, the law is still imperfect, in not admitting, by way of defence to a common-law action, matter which is now ground only for

application to the Court of Chancery to restrain the proceedings by injunction.

"In all actions at common law, whatever is ground for a perpetual injunction ought to be and is received as a defence, where the relief in Chancery would be unconditional; and in cases where such relief in the Court of Chancery would be conditional, the Courts of common law ought to have power to give, in a summary way, the same relief against actions pending therein. The first part of this recommendation has obtained the force of law by the 83rd and following sections of the Common-law Procedure Act of 1854, but subject to a condition, namely, 'provided that such a plea shall begin with the words, *for defence on equitable grounds*, or words to the like effect.' Considerable difference of opinion exists amongst us as to the propriety of requiring that a plea should be thus headed; but as we are not agreed upon this matter, we do not think it expedient to enter further upon it.

"The second part of the recommendation now under reconsideration has not been acted upon, and the consequence has been, that in many cases pleas founded upon matter which would, in the Court of Chancery, be ground for conditional relief, have necessarily been rejected by the common-law Courts, although they involved no difficulty which could not have been readily overcome by their ordinary procedure. The consequence is, that in such cases the defendant must either resort to the Court of Chancery, or submit to the judgment of the Court of law, though he is ready and willing to perform the conditions upon which, according to the rule of the Court of Chancery, he ought to be relieved from the effect of such judgment.

"Difficulties have been apprehended in raising such defences, because of the rigidity of the existing forms of pleading and judgment in the courts of common law, and from its having been supposed that no appeal could be made to lie against a decision founded upon a summary application. In truth, however, no such difficulty exists. An instance of a conditional equitable defence, given effect to by the proceedings in a common-law court, is presented by the proceedings in an action upon a mortgage to stay the action, and for a reconveyance upon payment of the debt and costs. The power of giving relief upon summary application, by rule or summons, may be coupled with a right to the unsuccessful party to appeal, by leave of the Court, within a limited time, upon giving security. The appeal might be in the form of a special case, stating the facts necessary to raise the question, as in appeals upon new trial motions, under the Common-law Procedure Act of 1854. This power of appeal, coupled with a discretionary power to direct issues or inquiries, and as to costs of the action and application, will enable the common-law Courts, in the great majority of cases, to dispose of such defences finally; whilst in cases in which any unforeseen difficulty may arise, though we do not anticipate any, a provision similar to the 86th section of the Common-law Procedure Act of 1854 will enable the court or judge to reject the defence, 'in case it cannot be dealt with by a Court of law so as to do justice between the parties, upon such terms, as to costs and otherwise, as to such court or judge may seem reasonable.'

"In these cases the summons or rule would be in the nature of a bill for relief; if a form of procedure analogous to a plea is preferred, there is no reason why it should not be adopted. In that case the judgment must be altered, and be made the same as the combined effect of a common-law judgment, and a decree on a bill for relief from it. On such a judgment, error or appeal may lie, as on other judgments.

"The action of ejectment is not included in our recommendations under this head, because the course of legislation on the subject of land has tended to maintain and strengthen the distinction between legal and equitable estates, and we cannot hope, under the form of an improvement in procedure, to change the system thus sanctioned.

"There is, however, in addition to the case mentioned in our Second Report of an outstanding trust term, a class of cases in which we think the Courts of common law might, with advantage, be authorised to receive defences, at present available only by proceedings in Chancery; we mean cases of relief against forfeitures.

"It often happens that contracts provide for a pecuniary penalty of large amount, in case of non-payment of a smaller sum, or non-performance of one or more stipulated acts, the omission of which occasions damage of less amount than the penalty. In such cases, at the common law, it was formerly competent for the stipulating party, in case of a breach of the contract, to demand and recover the whole amount of the penalty, without regard to the actual amount of damage sustained. In the Court of Chancery, however, unless it appeared that the amount represented the agreed damages for a breach of contract, technically called 'liquidated damages,' the sum stipulated to be paid was considered merely a security for the actual damages sustained; and where these admitted of calculation, that Court relieved against the penalty upon compensation being made for such damage. This jurisdiction has been given to Courts of common law, and the conflict between the two Courts put an end to, by the stats. 4 Ann. c. 16, s. 11, and 8 & 9 Will. 3, c. 11, s. 8. No more than the actual damage sustained can now be recovered, and the interference of the Court of Chancery is no longer necessary.

"Upon the same footing stands the jurisdiction of the Court of Chancery to relieve against forfeiture of leases for non-payment of rent, and in certain cases, since the stat. 22 & 23 Vict. c. 35, against breaches of covenants to insure.

"This jurisdiction has, in the case of non-payment of rent, been partially conferred upon Courts of common law by stat. 4 Geo. 2, c. 28, ss. 2, 3, 4, and the Common-law Procedure Act, 1852, ss. 210, 211, 212. We think that the jurisdiction of the Courts of common law should be extended in this direction, and that, in every case of ejectment brought for a forfeiture, these Courts should have, upon rule or summons, power to relieve in all cases in which relief can now be obtained by bill in Chancery.

"The legislation upon this subject will thus be rendered consistent.

"Another enactment is, however, necessary to give full effect to the reception of such defences by Courts of common law. It is, that a defendant shall not be permitted to proceed in the Court of Chancery for relief which he may obtain by plea or otherwise in the court in which the action is pending, unless after such defence has been rejected by the Court of common law expressly upon the ground that 'it cannot be dealt with there so as to do justice between the parties.' The course of decision upon this subject may be traced in the cases of *Prothero v. Phelps*, (before the Lords Justices, on the 22nd December, 1855); *Wild v. Hillas*, (before Sir R. T. Kindersley, V. C., on the 3rd Decem-

ber, 1858); *Kingsford v. Swinford*, (before the same judge, on the 31st January, 1859); and *Gompertz v. Pooley*, (before the same judge, on the 9th February, 1859). These cases seem to establish that in the present state of the law it is competent for a defendant, after allowing the action to proceed to its termination without availing himself of such a defence, to file a bill in Chancery founded upon the same matter, and, after a second investigation of the case, to nullify the judgment. This may be prevented, without introducing any novelty in principle, simply by requiring the defendant, upon the first opportunity, to put forward all that he intends to rely upon in answer to the action.

"The alleged jurisdiction of the Court of Chancery to entertain bills, technically called 'bills for a new trial,' to restrain execution upon a verdict and judgment, after the time for moving for a new trial in the common-law courts has elapsed, ought also to be abolished, as tending to revive and continue a litigation already brought to a close in a court of competent jurisdiction. Courts of law have abundant authority to deal with cases of fraud upon the Court, and abuse of their proceedings. In other cases it is considered that the time allowed to prepare for trial, and to move for a new trial, gives the defeated litigant as much opportunity to bring forward the matter upon which he relies as is consistent with a speedy and efficient administration of justice. The protraction of litigation to a length bearing a large proportion to the ordinary period of life is all but equivalent to a denial of redress, and it operates with almost equal disadvantage to both the litigants. The cases in which such a jurisdiction may be applicable were always rare, and they have become more unlikely than ever to occur, since the parties to a suit may be examined for or against themselves. Bills for a new trial have, for the reasons stated, fallen into disrepute and desuetude; but as the jurisdiction is stated to exist, and is an anomaly in our jurisprudence, we think it ought to be abolished by express enactment.

"We have thus recommended that many powers exercised by the Court of Chancery should be given to the common-law Courts, and in doing so we have selected those only which seemed to us likely to be exercised there with advantage. It has not been our object to extend, for the mere sake of extending, the field in which the Courts have common jurisdiction, by giving to the common-law Courts powers which may be exercised with equal benefit in the Court of Chancery, but simply to prevent the necessity for a resort by either party to both Courts for the purpose of obtaining complete justice, where the Court of Chancery at present, in the case of common-law rights, gives, on the one hand, aid by way of discovery, or a more complete remedy, as by injunction and specific performance, or, on the other hand, restrains the proceedings in common-law courts because of the existence of an equitable defence. Indeed, it is obvious that our recommendations, instead of having a tendency to extend the common field of jurisdiction, suggest a contrary and more effectual mode of putting an end to the contest between Courts of common law and Chancery, by so distributing their jurisdiction as to render their interference with one another impossible. It is our intention and wish, that the result of what is proposed should be ingrafted upon and become part of the common law, and that the distinction between common law and Chancery law should be so far abolished. If, in addition to this, the Court of Chancery is prohibited from interfering in cases where common-law rights are thus rendered capable of complete vindication in the courts of common law, and in which, therefore, its interference will have become useless, the greater part, if not the whole, of the field of conflict will be done away with, by confining the operation of the courts respectively to subject-matters peculiar to each. Thoroughly to effect this it is necessary

to confer upon common-law Courts power to give, in respect of rights there recognised, all the protection and redress which at present can be obtained in any jurisdiction, and it is upon this principle that we have acted in our suggestions. If they be carried into effect there will no longer be the spectacle of jurisdictions imperfect in themselves, and clashing with one another, but each Court will be armed in itself with exclusive jurisdiction over the subject-matter within its cognisance, and with full power to give all the protection and redress which the law at present affords by means of a plurality of suits. The conflict of jurisdiction will be done away with, because the occasion for it will no longer exist.

"We have only to add, that we have given our best attention to the question whether it is necessary to adopt the procedure of the Court of Chancery in cases where it is proposed to borrow from its remedies; and we have arrived at the conclusion, strengthened by an experience of the working of the Common-law Procedure Act of 1854, that the desired object can be attained as effectually, and with less expense, by means of the ordinary proceedings of the common-law Courts."

### MACAULAY AND THE BAR.

"If we were to seek a rival to Macaulay in this peculiar province of clear and cogent reasoning from fact A to fact X, imparting to conjecture the force of truth, we should probably find him rather among lawyers than writers. In truth, the historian always retained, and to his great advantage, many of the mental habits, as well as many of the tastes and joyous recollections, of the Bar. He was at once the most Paleyan and the most forensic of historical inquirers. When he entered the arena of controversy, you might doubt whether he had donned his armour in the senate-house of Cambridge or the assize court of Lancaster. We may assume (as Coke assumed, lamentingly, of Bacon) that had he only stuck to the law he would have made a great lawyer. But it is open to doubt whether, as a judge, he would have done more of service by the marvellous lucidity with which he would have drawn out a series of circumstantial evidence before a jury, or more of harm by his tendency to force the various considerations attending a complicated case into conformity with his own too complete and too vivid ideal of that case."—*The Cornhill Magazine* for March, p. 259.

### LAW AMENDMENT SOCIETY.

THIS Society held its seventh general meeting of the session on Monday, the 20th ult., when Lord Brougham took the chair.

Mr. Edward Webster read a paper on the Registration of Titles to Land in South Australia, under the Colonial Act of July, 1858.

Mr. Edgar then read the report of the special committee on scientific evidence, and stated that the committee were not prepared to recommend any change in the existing mode of taking scientific evidence—at least, until some plan had been proposed which would work harmoniously with the rest of our legal system. They could not agree to any of the suggestions by scientific men which had been laid before them.

The Chairman observed, with regard to the difficulty adverted to in the report, of distinguishing the evidence of scientific men from that of others skilled witnesses, that any changes might be made to apply only to evidence relating to chemical and mechanical subjects; and with regard to assessors sitting along with the judge, to which the committee had objected, he suggested that the plan

might be followed which is adopted in the Admiralty Court, where the judge was assisted, in cases depending on technical skill and experience in navigation, by masters of the Trinity House, but, although so assisted, gave his own independent judgment.

Mr. T. Webster moved that the report be received and printed. He thought the report extremely opportune, as it would tend to stop the agitation which had been attempted to be got up on the subject of which it treated, and to dispel the misconceptions which prevailed among scientific men. Many men, eminent in science and otherwise, had expressed great horror at the exhibition made by scientific men in the witness-box. But it ought to be considered that a great proportion of the evidence given by such witnesses was not evidence of fact, but evidence of opinion. In any particular case, the facts being given, there were classes of minds, some of which drew their inferences dealing with similarities, and others drew their inferences dealing with dissimilarities; and in scientific questions they had the same conflict of testimony, resulting from honest differences of opinion, as upon any other subject. Another point noticed in the report was, where the line was to be drawn between scientific evidence and the evidence of skilled witnesses. Men who speak to the quality of a commodity—cloth or wine, for instance—give evidence of opinion as much as scientific witnesses. Men, of whatever class, who are placed above their fellows, either by education or instinct, in any special matter in which their testimony is required, came within the category of scientific men. There was the same difficulty in every question where opinion was involved. They must investigate opinion, and how could they do that except by a system of examination, cross-examination, and re-examination? With regard to assessors, he did not think they could be added to a jury; in the Admiralty Court there was no jury. In cases, therefore, where they require an assessor, such as patent cases, they ought to get rid of the jury. Nothing could be more absurd or more unsatisfactory than the present mode of submitting questions of patent right to a jury. He did not know a case within his own experience in which, where a simple question of infringement arose, and the decision was left to the jury, they did not find an infringement had taken place.

Mr. Hastings seconded the motion, and in doing so expressed his approval of the plan of appointing assessors to the judge in those cases in which a jury might be dispensed with. A provision of that nature had been introduced into Lord John Russell's Bankruptcy Bill, and, he trusted, would become law. He would advert to one matter on which great laxity prevailed—as to the scientific evidence in criminal trials. It appeared that no adequate security was taken that the substances, or portions of the human frame, sent to a chemist for analysis were safely transmitted to him intact, so that there might be considerable doubt as to their identity, and some danger of their being tampered with. On the general question, he entirely agreed with the report, as to the impossibility of drawing any sound and available distinction between scientific and other evidence.

The motion was carried.

### COMMISSIONERS TO ADMINISTER OATHS IN COMMON LAW.

—The following gentlemen have been appointed London Commissioners for administering oaths in courts of common law:—*Queen's Bench*: Samuel Potter the elder, of No. 36, King-street, Cheap-side; and Charles Thomas Jenkinson, of No. 7, Clement's-lane, Lombard-street.—*Common Pleas*: Samuel Potter the elder, of No. 36, King-street, Cheap-side; and Charles Thomas Jenkinson, of No. 7, Clement's-lane, Lombard-street.—*Exchequer*: Samuel Potter the elder, of No. 36, King-street, Cheap-side.

## BILL IN PROGRESS.

## LAW AND EQUITY BILL.

(LORD CHANCELLOR).

*A Bill for the further Amendment of the Process, Practice, and Mode of Pleading in, and enlarging the Jurisdiction of, the Courts of Common Law.*

Sect. 1. In all cases of threatened breach of contract or other injury of such a nature that an action at law for damages might be maintained for the same if committed, application may be made, either ex parte or by rule or summons, to the court or a judge for an injunction; and upon such application a writ of injunction may be ordered to issue forthwith, upon such terms, as to the duration of the writ, giving security, costs, and otherwise, as to the court or judge shall seem reasonable.

2. Any order for injunction, or any writ issued by virtue thereof, may be discharged or varied by the court.

3. Injunction may be ordered to issue at once, or on rule or summons.

4. Upon any application to discharge &c. order for injunction, or any writ issued by virtue of such order, and upon the hearing of any rule or summons to shew cause why a writ should not issue, the court or judge shall have power either to decide the matter summarily, or to direct a special case to be stated or an issue to be tried, in such manner and upon such terms as they or he shall think fit, and generally to impose such terms and make such orders as to the duration of the writ, keeping an account, giving security, undertaking to pay damages in case the injunction should ultimately fail, costs of the proceedings, or otherwise, as to such court or judge shall seem reasonable and just.

5. In any such action directed by the court it shall not be necessary for the plaintiff to claim an injunction in the declaration, unless so ordered.

6. In case of disobedience to any writ of injunction, the same may be enforced by attachment.

7. Writs of injunction against a corporation may be enforced either by attachment against the directors or other officers thereof, or by writ of sequestration against their property and effects.

8. No proceeding under this act shall be defeated by proof that the wrongful act has been committed or begun; and it shall be in the discretion of the court in such case to direct a writ claiming an injunction to be issued.

9. In ejectment, and all other actions and civil proceedings in any of the superior courts in which it is sought to recover land or goods, the plaintiff may, at any time after the commencement thereof, and whether before or after judgment, apply to the court for an injunction to restrain the defendant from injuring or making away with such land or goods.

10. Where the defendant in an action or civil proceeding would be entitled to obtain conditional relief in the Court of Chancery against further proceedings in such action, or upon a judgment obtained therein, he may apply summarily to the court in which the proceedings are, or to a judge, for such relief, who may, by rule or order, grant such relief against the action, or proceedings, or judgment therein, upon such terms and conditions as to the costs of the application and otherwise as shall be just.

11. The defendant in any cause may set up, by motion or summons in the nature of an *audita querela*, any matters arising after judgment for which he might have obtained relief, absolute or conditional, in the Court of Chancery, against such judgment.

12. The court may reject application for relief.

13. The court may direct a special case to be stated for the opinion of the court, or an issue or reference to such person or persons as the parties may agree upon, or to the master, upon such terms as they shall think reasonable.

14. Power to appeal from order of court.

15. The courts of error to be courts of appeal.

16. No appeal to be allowed unless notice be given in writing to the opposite party or his attorney, and to one of the masters of the court, within four days after the decision complained of, or such further time as may be allowed by the court.

17. Notice of appeal to be a stay of execution, provided bail to pay the sum demanded and costs be given.

18. The form of the appeal.

19. The court of appeal to give such judgment as ought to have been given in the court below, with power to remit the cause, with such directions as they shall think proper.

20. The court of appeal shall have power to adjudge payment of costs, and to order restitution.

21. In the case of any ejectment for a forfeiture brought for non-payment of rent, the court shall have power, upon rule or summons, to give relief in a summary manner, subject to appeal.

22. In the case of any ejectment for a forfeiture for breach of a covenant or condition to insure against loss or damage by fire, the court shall have power, upon rule or summons, to give relief in a summary manner, subject to appeal, in all cases in which such relief may now be obtained in the Court of Chancery under the provisions of the stat. 22 & 23 Vict. c. 35.

23. Minute of relief granted to be made on the lease.

24. In any case where a person holds a document which upon the face of it appears to give a right of action at common law, but which, by reason of circumstances which would constitute a defence if an action were brought, ought not to be made available, the party apparently charged by or liable upon such document may commence an action to have the document delivered up and cancelled; and in such action the court or judge may, in all cases where the Court of Chancery would order such document to be given up and cancelled, order that execution shall issue for the delivery up to the plaintiff of such document; and that, if the said document cannot be found, and unless the court or a judge should otherwise order, the sheriff shall distrain the defendant by all his land and chattels in the said sheriff's bailiwick till the defendant render such chattel: provided that the plaintiff in such action shall, either by the same or a separate writ of execution, be entitled to levy the costs in such action.

25. A contempt of court to injure or part with the possession of any document after notice of action.

26. Form of the writ.

27. Form of the declaration.

28. If in any such case a part of the amount appearing to be due upon such document is really due from the person claiming to have it delivered up to him, an offer to pay such amount may be made to the defendant before action commenced; and it may be stated in the declaration, that such offer has been made to and refused by the defendant; and such amount may be paid into court, to abide such order as the court may make; and such statement and payment into court shall be considered equivalent to actual payment of such amount before action brought.

29. The provisions of the Common-law Procedure Acts, 1852 and 1854, to apply to the pleadings and proceedings in such action for the delivery up of documents.

30. Relief obtainable at law not to be applied for in Chancery.

31. Power to a court to stay proceedings in Chancery.

And with respect to Interpleader proceedings:—

32. Interpleader allowed in case of equitable claims.

33. An equitable claim may be set up in action or feigned issue.

34. Power to court to adjust equitable claims.

35. Interpleader may be granted, though the titles of the claimants to the money, goods, or chattels in question, or to the proceeds or value thereof, have not a common origin, but are adverse to and independent of one another.

36. Court may direct sale of goods seized in execution.

37. Upon the hearing of any rule or order calling upon persons to appear and state the nature and particulars of their claims, it shall be lawful for the court, wherever, from the smallness of the amount in dispute or of the value of the goods seized, it shall appear desirable so to do, at the request of either party, to dispose of the merits of the respective claims of such parties, and to determine the same in a summary manner.

38. A special case may be stated where facts undisputed.

39. The proceedings upon such case shall, as nearly as may be, be the same as upon a special case stated under the Common-law Procedure Act, 1852, and error may be brought upon a judgment upon such case; and the provisions of the



Common-law Procedure Act, 1854, as to bringing error upon a special case, shall apply to the proceedings in error upon a special case under this act.

40. The judgment in any such action or issue as may be directed in any interpleader proceedings, and the decision of the judge in a summary manner, shall be final and conclusive against the parties, and all persons claiming under them.

41. All rules, orders, matters, and decisions in interpleader proceedings, excepting affidavits, may, together with the declaration in the cause, if any, be entered of record, and made evidence.

With regard to certain points of procedure and practice:—

42. The joinder of too many plaintiffs shall not be fatal, but every action may be brought in the name of all the persons in whom the legal right may be supposed to exist; and judgment may be given in favour of the plaintiffs by whom the action is brought, or of one or more of them; or, in case of any question of misjoinder being raised, then in favour of such one or more of them as shall be adjudged by the court to be entitled to recover: provided always, that the defendant, though unsuccessful, shall be entitled to his costs, occasioned by joining any person or persons in whose favour judgment is not given, unless otherwise ordered by the court or a judge.

43. The defendant to have benefit of set-off, though some plaintiffs improperly joined.

44. No other action shall be brought against the defendant for the same cause.

45. Provisions of the 19 & 20 Vict. c. 108, as to replevin, to apply to all cases of replevin.

46. The plaintiff in replevin may, in answer to an avowry, pay money into court in satisfaction.

47. Such payment into court in replevin shall not, nor the acceptance thereof by the defendant, work a forfeiture of the replevin bond.

48. In any action brought upon a bond, which has a condition or defeasance to make void the same upon payment of a lesser sum at a day or place certain, with a penalty, and in any action for detaining the goods of the plaintiff, it shall be lawful for the defendant, by leave of the court, to pay into court a sum of money to answer the claim of the plaintiff in respect of such bond in the former case, and, in the latter case, to the value of the goods alleged to be detained; and such payment into court shall be made and pleaded in like manner, and according to the provisions of the Common-law Procedure Act, 1852; and the like proceedings may be had and taken thereupon as to costs and otherwise.

49. Dower, writ of right of dower, and quare impedit, to be commenced by writ of summons issuing out of the Court of Common Pleas.

50. Writ, and all proceedings thereon, to be the same as in ordinary actions.

51. In proceedings to obtain an attachment of debts under the Common-law Procedure Act, 1854, the judge may, in his discretion, refuse to interfere, where, from the smallness of the amount to be recovered, or of the debt sought to be attached, or otherwise, the remedy would be worthless or vexatious.

52. Whenever, in proceedings to obtain such attachment, it is suggested by the garnishee that the debt sought to be attached belongs to some third person who has a lien or charge upon it, the judge may order such third person to appear before him, and state the particulars of his claim.

53. The judge may bar the claim of third persons.

54. The provisions of the Common-law Procedure Act, 1854, so far as they are applicable, shall apply to any order, &c. made in pursuance of this act.

55. Costs of writs of mandamus and injunction may be included in writs.

56. Costs not recoverable in action for injury where verdict less than 5*l.*, unless judge certifies.

57. The 87th section of the Common-law Procedure Act, 1854, to be repealed; and court may, upon summary application, by rule or order, exercise the same jurisdiction as the Court of Chancery under the 9th section of the Merchant Shipping Act, 1854.

58. Power of judge to amend proceedings.

59. General rules may be made by judges.

60. New forms of writs and other proceedings may be adopted, as judges may think right.

61. Interpretation clause.

62. Provisions extended to Court of Common Pleas at Lancaster and Court of Pleas at Durham.

63. Provisions as to masters to apply to the prothonotaries of palatine courts.

64. As to proceedings in appeal, the Court of Queen's Bench, being the court of error from the said Court of Common Pleas at Lancaster and Court of Pleas at Durham, shall also be the court of appeal from the said respective courts for the purposes of this act.

65. Provision as to commencement of act.

66. Her Majesty, by an Order in Council, may direct all or any part of the provisions of this act to extend to any court of record in England and Wales.

67. Act to be cited as "The Common-law Procedure Act, 1860."

68. Act not to extend to Ireland or Scotland.

past 11, London, div.—*William Aulton* and *John Sanderson Butler*, Nottingham, lace manufacturers, March 29 at half-past 10, Nottingham, div. sep. est. of *William Aulton*.—*John Fisher*, Nottingham, builder, March 29 at half-past 11, Nottingham, div.

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To be allowed, unless Cause be shown to the contrary on or before the Day of Meeting.

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div.—**David Allen and John Smith**, Manchester, warehousemen, March 14 at 12, Manchester, aud. ac.—**G. Curedale**, Burnley, Lancashire, manufacturer, March 13 at 12, Manchester, aud. ac.; March 23 at 12, div.—**John Buxton**, Manchester, builder, March 13 at 12, Manchester, aud. ac.—**Richard R. Beatty and David Daley**, Manchester, shirt manufacturers, March 13 at 12, Manchester, aud. ac.; March 23 at 12, div.—**Ralph Nuttall**, Macclesfield, Cheshire, silk manufacturer, March 13 at 12, Manchester, aud. ac.—**S. Russell**, West Hartlepool, Durham, builder, March 13 at 12, Newcastle-upon-Tyne, aud. ac.—**W. Shaw**, Croydon, Surrey, oil and colour man, March 23 at 11, London, div.—**C. Collins and Wm. F. Collins**, Lower Sloane-street, Chelsea, drapers, March 24 at 12, London, div.—**Thomas Pearson**, Warwick court, High Holborn, Middlesex, money scrivener, March 26 at 12, London, div.—**The Royal British Bank**, Threadneedle-street, London; Strand; Goswell-road; Shaftesbury-terrace, Finsbury; Regent-circus, Piccadilly; and Holborn, Middlesex; and Bridge-road, Westminster-bridge, and Stom's-end, Southwark, Surrey, March 27 at 12, London, div.—**John Wyatt**, Chipping Campden, Gloucestershire, licensed victualler, April 5 at 11, Bristol, div.—**John Hayward**, Hilsdon, Oswestry, Shropshire, scrivener, March 26 at 11, Birmingham, div.—**Joseph Whitehouse**, West Bromwich, and Wm. Jeffries, Compton, Kinver, Staffordshire, ironmasters, March 26 at 11, Birmingham, aud. ac.; April 2 at 11, div.—**Joseph Porter**, Salford, Lancashire, screw-bolt manufacturer, March 23 at 12, Manchester, div.—**John Marley Pearson**, Goutham, near Redcar, Yorkshire, builder, March 24 at 11, Leeds, div.—**Abel Hinchliffe**, Sheffield, Yorkshire, printer, March 24 at 16, Sheffield, div.

## CERTIFICATES.

To be allowed, unless Cause be shown to the contrary on or before the Day of Meeting.

**Edward Gibson**, Brooks-mews, Brook-street, Gloucester-place, Hyde-park-gardens, Middlesex, job master, March 23 at half-past 1, London.—**Wm. Russell Grover**, Hand-court, High Holborn, Middlesex, licensed victualler, March 23 at half-past 11, London.—**Thomas Simmons**, Hurst, Berkshire, cattle salesman, March 23 at half-past 11, London.—**Wm. Maynard Aylward**, Sermon-lane, Doctors'-commons, London, and Paragon-place, New Kent-road, Surrey, wine merchant, March 24 at 12, London.—**James Beatty**, Longtown, Cumberland, draper, March 24 at 12, Newcastle-upon-Tyne.—**Raley Middleton** and **John Middleton**, Leeds, Yorkshire, linen-drappers, April 2 at 11, Leeds.—**Wm. Ellis** the elder, Nottingham, and **Wm. Ellis** the younger, Atherstone, Warwickshire, scaleboard manufacturers, April 4 at 11, Birmingham.—**John Dyle**, Birmingham, grocer, March 26 at 11, Birmingham.

To be granted, unless an Appeal be duly entered.

**Elizak Pinkess**, Liverpool, oil and colour man.

## PETITIONS ANSWERED.

**James Whitlock**, Birmingham, grocer.—**Thomas Aston**, Willenhall, Staffordshire, engineer.

## SCOTCH SEQUESTRATIONS.

**Archibald Orr**, Dumfries, watchmaker.—**John Darling**, Dunfermline, manufacturer.—**James Crawford**, Saltcoats, shipowner.

## TUESDAY, March 6.

## BANKRUPTS.

**GEORGE HAYMAN**, Portsmouth, Southampton, victualler, March 17 at 11, and April 12 at 12, London: Off. Ass. Bell; Sols. Lawrence & Co., Old Jewry-chambers.—Pet. f. March 5.

**JOHN PEARCE**, Holborn-hill, Middlesex, woollendrapers, March 17 at half-past 11, and April 12 at 1, London: Off. Ass. Johnson; Sols. Lloyd & Rule, 26, Milk-street, Chesham.—Pet. f. March 5.

**JAMES COLLINS**, Oxford, paper maker, March 20 at half-past 2, and April 24 at 12, London: Off. Ass. Lee; Sols. Becke, Northampton; Low, 65, Chancery-lane, London.—Pet. f. Feb. 23.

**WILLIAM POOK**, Exeter, grocer, March 21 and April 18 at 12, Exeter: Off. Ass. Hirtzel; Sols. Head & Venn, Exeter.—Pet. f. March 2.

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THE JURIST.

LONDON, MARCH 10, 1860.

THE duties of an official liquidator to a company in course of being wound up under the provisions of the Joint-stock Acts are of a most serious and responsible nature, and it may not be altogether uninteresting to the legal reader to be furnished with a brief epitome of his powers and functions.

The Joint-stock Companies Act, 1856, provided that, for the purpose of conducting the proceedings in winding up a company, one or more persons, styled “official liquidators,” should be appointed. They were empowered to take into their possession all the property and effects of the company; to bring actions; to carry on the business of the company, so far as might be necessary for its beneficial winding up; to sell the real and personal property by public auction or private contract; to execute all deeds, receipts, and other documents; to refer disputes; to prove claims, &c. in the matter of the bankruptcy or sequestration of any contributory, for any balance against the estate of such contributory; to draw, accept, make, and indorse bills of exchange and promissory notes, &c.

The act, moreover, empowered them to appoint a solicitor or law agent, with the approval of the Court, together with such clerks and officers as should be considered necessary. The remuneration of the liquidator was to be by way of per-centage, or in such other

manner as the Court might direct. (See sects. 88 to 92 of the 19 & 20 Vict. c. 47).

The Joint-stock Companies Amendment Act, 1857, contained various clauses increasing the authority of official liquidators. The 17th clause provided, that when a company was being wound up voluntarily, and the whole or a portion of its property was to be sold to another company, the liquidators might, with the sanction of the company by whom they were appointed, receive shares in such other company for the purpose of distribution amongst the shareholders of the company being wound up. This act also subjected the liquidators to a penalty not exceeding *5l.* for every day during which they should make default in reporting to the registrar the decree declaring the company to be dissolved, in conformity with the 93rd section of the Joint-stock Act, 1856; and also enacted, that if the liquidators had in their hands, at the expiration of twelve months from the date of the dissolution of any company that had been wound up, any money or other property which they had been unable to distribute, owing to the death or absence of the parties, they were to be deemed to be trustees of such property within the meaning of the Act for better securing Trust Funds, and for the Relief of Trustees. (11 Vict. c. 96).

The 19th section of the Joint-stock Companies Act, 1858, repealed one of the clauses in the Joint-stock Companies Act, 1857, (and which has not been noticed in the above remarks, as the reader will prefer the substituted for the repealed section). The effect of the substituted section is, that the liquidators may compromise

all calls, claims, and liabilities, whether present or future, and give complete discharges in respect of all or any of such calls, debts, or liabilities, subject to this proviso—first, that where a company is being wound up compulsorily, or where an order is made for the continuance of a voluntary winding up, no such compromise can be made, except in accordance with the directions of the Court, after notice to the creditors; and, secondly, that where a company is being wound up altogether voluntarily, no such compromise can be made without the sanction of a special resolution of the company.

The 3rd section of the Amendment Act, 1858, enables the Court to appoint additional liquidators in certain cases. Another clause empowers the Court, where a company is being wound up compulsorily, to order that the liquidators may exercise any specified power without the intervention of the Court. It is also provided, in subsequent clauses, that the liquidators may, with the sanction of the Court, at any stage of the winding up, pay any classes of creditors in full, and that they may invest monies for the time being in their hands in Government securities, including Exchequer bills.

Should it appear that any existing director, public officer, or member of a company in course of being wound up, has been guilty of any offence in relation to the company, for which he is criminally responsible, the Court may direct the official liquidators to institute and conduct a prosecution for such offence, and order the costs to be paid out of the assets of the company.

It was decided in *Clark's case*, (4 Jur., N. S., part 1, p. 800; 30 Law T. 174), that where a company is being wound up, and the plaintiff has brought an action against the directors, he is entitled, as of right, at common law, to inspect the books and papers in the hands of the official liquidator. It has been held, in the recent case of *The Northumberland and Durham Banking Company*, (4 Jur., N. S., part 1, p. 419; 27 L. J., Ch., 354; 6 Weekly Rep. 315), that it is not necessary that the liquidators should be accountants, or persons unconnected with shareholders.

In another case (*In re The Metropolitan Saloon Omnibus Company, Limited*, 5 Jur., N. S., part 1, p. 922; 33 Law T. 360) it was held, that the official liquidator appointed by the major part in number and value of the contributories, under the 88th section of the Joint-stock Companies Act, 1858, should give security; but the Court refused to order the official liquidator appointed by the Court to give security, as he had already done so as official assignee, and as an officer of the court.

As to substitution of the official liquidator as plaintiff in proceedings instituted by the company before the winding-up order, see *Caldwell v. Ernest*, (5 Jur., N. S., part 1, p. 667; 28 L. J., Ch., 810).

## COURT OF CRIMINAL APPEAL.

THE question of a court of appeal in criminal cases is just one of those questions in which theory is all on one side, and many practical difficulties, almost if not quite insuperable, are on the other. It is anomalous that a new trial should be attainable in an action involving an amount of 20*l.*, and not be allowed in cases involving liberty, reputation, life, and death. It is not satisfac-

tory that there should be no inquiry into the merits or demerits of conviction for a crime, except such inquiry as a Secretary of State may choose to make. But what then? If the thing is impracticable, or can be attained only with such injury to the administration of justice as to outweigh all the advantages which can be anticipated, we must put up with anomalies, and be contented with that which in theory is imperfect and unsatisfactory.

When the subject was lately brought by Mr. McMahon before the House of Commons, Sir George Cornwall Lewis skilfully summed up the difficulties in the way of establishing a court of appeal in criminal cases. After shewing that the opinions of the majority of our judges were opposed to it, and that the practice of the civilised world went generally against it, he proceeds to the difficulties of which we have spoken, and to the reasons against the proposed alteration; and this part of his speech we give at length, as it cannot fail to possess a permanent interest for lawyers:—

Before the committee of 1848 Lord Deaman said—"What I would state, in one word, as my objection to the general power, is, that there would be no antagonism; there are no adverse parties, as in civil cases." And that principle is explained somewhat more fully in the letter of Mr. Baron Rolfe, now Lord Cranworth:—"With respect to the inexpediency of any right of appeal in criminal cases, I beg leave to add, in addition to what has been stated by Baron Parke, that a new trial would very rarely indeed be practicable. In civil cases the plaintiff has a direct personal interest in the result of his cause, and when a verdict obtained by him is set aside, and a new trial is ordered, he is obliged, in order to gain the object of his suit, and save himself from the obligation of paying the defendant his costs, to take proper steps for bringing all necessary witnesses to a second trial. But this is not the case in criminal prosecutions; a large proportion of prosecutors come forward only because they are bound to do so; the whole proceeding is rather a burthen imposed on the prosecutor, than a measure which he voluntarily adopts for the sake of personal redress; and I conceive that in nine cases out of ten when a new trial is ordered there would be so much difficulty in getting the prosecutor and witnesses together that no second trial could efficiently take place."

It may be urged, however, that while there is some ground for the distinction between the two classes of cases, there is still a great practical grievance to be remedied. Will any gentleman present take upon himself to affirm the frequency of wrong convictions by juries in criminal cases? If not, the whole groundwork of the proposed measure fails. I will quote the views of one or two eminent legal authorities on this point.

Baron Parke, now Lord Wensleydale, when examined before the committee, said—"I think that the complaints of the present mode of administering the criminal law have little foundation, for the cases in which the innocent are improperly convicted are extremely rare. Some, no doubt, there are; and I consider it is impossible in any human system of administering justice to avoid such misfortunes occasionally. There are many cases in which the guilty escape, but very few in which the innocent are punished; and having now had more experience upon the bench in the administration of criminal justice than any other judge, I can say for myself that I can hardly call to my recollection any case with which I am personally acquainted in which I think that a person really innocent has been convicted by the jury."

Lord Deaman expressed a similar opinion—"Juries are extremely unwilling to fall into the error of wrongly convicting. I believe there are a great many very wrong acquittals, and even conscientiously sometimes, from good motives and very respectable feelings, but unfortunately contradicting the truth, and bringing the administration of justice into some contempt, and giving impunity to great offenders."

Lord Brougham coincides in that view. "My impression and belief," he said, "most undoubtedly is, that there are very rare occasions indeed on which there is a wrong conviction."

Justice Wightman said—"As far as my experience goes, I entirely concur with Baron Parke in thinking that the con-

viction of a really innocent person is so rare that there is practically no sufficient necessity for applying a remedy which would be attended with such obvious impediments to the due course of criminal justice."

The weight of evidence is, therefore, in favour of the belief that wrong verdicts in criminal cases, at least when they are against the prisoner, are of rare occurrence. But if a wrong verdict is given, and the judge is dissatisfied with it, what is the almost universal result? It is, that the judge communicates his dissatisfaction to the Home Secretary; and I find it stated by Baron Parke, and assented to by Lord Lyndhurst and Lord Brougham, that such a report is universally acted upon. I maintain, therefore, that no proof of any practical and substantial grievance has been brought before the House, and that none really exists. The hon. and learned member referred to the case of Smethurst as an illustration of the necessity for a measure such as he has introduced; but I must say I entirely differ from him as to that case affording any ground whatever for the adoption of criminal appeals. The case was a difficult one undoubtedly, and it was my duty to give the closest attention to it, and do my best to master its details; but I cannot discern in the circumstances of that case any argument whatever in favour of a Court of Appeal. I think I may say with the utmost confidence, that had application been made, under the terms of this bill, within the first four days of the term after last August, for a new trial, on the ground of misdirection by the judge, it would necessarily have failed. The case, I believe, was directed to the jury with perfect legal propriety; nor could an application for a new trial have been entertained upon the ground that the verdict was contrary to the evidence. My advice to her Majesty to grant a pardon was entirely founded on medical considerations. There was scarcely any dispute as to the medical facts brought out in evidence, but the question turned on the medical inferences to be deduced from them; and it was upon the opinion of eminent medical practitioners as to the bearing of these facts that I rested my advice. Medical science with regard to poisons is, unfortunately, in a somewhat imperfect and uncertain state; and the same imperfection and uncertainty are necessarily communicated to the legal questions with which they are connected. You might grant appeal after appeal, and have examinations before all sorts of courts, and you would never get over the fundamental uncertainty which arises from the present imperfect state of medical science. . . . .

I wish now to shew some of the probable consequences with which the bill is pregnant, in the event of its being passed. These are, first, the delay and uncertainty which it would import into the administration of criminal law. It is a maxim laid down by all writers on criminal jurisprudence, that punishment is effectual in proportion as it is speedy and certain; and the result of the proposed measure would therefore be to deprive the administration of the criminal law of much of its effect.

Upon this point Lord Brougham said before the committee of 1848—"The criminal law depends for the effect, more or less, which it has in deterring from crime by example of punishment, upon the speediness with which execution of the sentence follows trial. But in this case you would have a prisoner found guilty at York in the first fortnight in July, but no sentence, even in the most flagrant case of murder, ever could be executed till the middle of November following. For certainly in every case of capital conviction, and I believe in every serious case, the moving for a new trial would be a matter of course." Another important feature in the question is the expense which the multiplication of trials, and the necessary addition to the number of judges, would cause. Lord Brougham gave the following opinion as to the probable additions to the Bench that would be required in the event of criminal appeals being established:—"Another thing is this—for the present number of judges to do it would be utterly impossible; and then you come to the great difficulty of materially increasing the number of the judges. Supposing the Bar could furnish the increased number, which is perhaps doubtful; but supposing it could furnish six more judges to be added to the present fifteen, I beg to know how those judges could be kept up to the mark for their business." I do not suppose, of course, that the hon. and learned gentleman, or any member of this House, would be influenced by the prospect of business at the bar being increased by the adoption of appeals; but no less competent an authority than

Lord Denman suggested that as a reason for the popularity of the proposal. His Lordship said—"I think there is another reason for the outcry, which is a great desire, I think, on the part of many active and able persons attached to the law, to see a new court and a new course of practice, which would be popular and striking, and give a new scope for the display of their talents."

(To be continued).

## LIST OF SHERIFFS AND UNDER-SHERIFFS, WITH THEIR DEPUTIES AND AGENTS, FOR 1860.

\*. Warrants are not granted in town for those places marked (\*). The term of office of the sheriffs, &c., for cities and towns, expires on the 9th November. Office hours—in Term, from 11 till 4; and in Vacation, from 11 till 3.

**Bedfordshire**—Charles L. Higgins, Esq., Turvey Abbey.

*Undersh.*, John Garrard, Esq., Olney, Bucks.

*Depts.*, Cardale & Co., 2, Bedford-row, W. C.

**Berkshire**—Sir Claudius Stephen Paul Hunter, Bart., Mortimer, near Reading.

*Undersh.*, John Jackson Blandy, Esq., Reading.

*Depts.*, Gregory & Co., 1, Bedford-row, W. C.

**Berwick-upon-Tweed**—T. Allan, Esq., Berwick-upon-Tweed.

*Undersh.*, S. Sanderson, Esq., Berwick-upon-Tweed.

*Dep.*, G. Knox, Esq., 3, Bloomsbury-square, W. C.

**Bristol**—W. M. Baillie, Esq., Over Court, Gloucestershire.

*Undersh.*, William Ody Hare, Esq., Bristol.

*Depts.*, Bridges & Son, 23, Red Lion-square, W. C.

**Buckinghamshire**—Wm. B. Tyningham, Esq., Tyingham.

*Undersh.*, William Powell, Esq., Newport Pagnell.

*Dep.*, C. Wigg, Esq., 20, Clement's-lane, Lombard-street, E. C.

**Camb. & Hunts.**—Right Hon. Philip Castoll, Lord Sherrard, Glotton, Hunts.

*Undersh.*, Clement Francis, Esq., Cambridge.

*Depts.*, J. & C. Cole, 36, Essex-street, Strand, W. C.

**Canterbury**—Thomas White Collard, Esq., Canterbury.

*Undersh.*, Herbert T. Sankey, Esq., Canterbury.

*Depts.*, Kingsford & Co., 23, Essex-st., Strand, W. C.

**Cheshire**—Clement Swetenham, Esq., Somerton Booths, near Congleton.

*Undersh.*, George William Reads, Esq., Congleton.

*Dep.*, G. F. Hudson, Esq., 23, Bucklersbury, E. C.

**Chester**—Robert Frost, Esq., Chester.

*Undersh.*, J. Hoetage, Esq., Bridge House, Chester.

*Depts.*, Chester & Co., 11, Staple-inn, W. C.

**Cornwall**—H. Williams, Esq., Carnanton, Cornwall.

*Undersh.*, Francis Hearle Cock, Esq., Truro.

*Depts.*, Hool, Street, & Gutteris, Philpot-lane, E. C.

**Cumberland**—Philip Henry Howard, Esq., Carby Castle, near Carlisle.

*Undersh.*, G. G. Mounsey, Esq., Castle-st., Carlisle.

*Depts.*, Gray & Mounsey, 9, Staple-inn, W. C.

**Derbyshire**—Francis Hurt, Esq., Alderwasley.

*Undersh.*, { Milnes & Co., Matlock.

*Depts.*, Boys & Twedie, 8, Ely-place, W. C.

**Devonshire**—Peter Richard Hoare, Esq., Luscombe.

*Undersh.*, William Buckingham, Esq., Southernhay, Exeter.

*Dep.*, J. G. Dobinson, Esq., 57, Lincoln's-inn-fields, W. C.

**Dorsetshire**—George D. W. Digby, Esq., Sherborne Castle, Sherborne.

*Undersh.*, Thomas Ffokes, Esq., Sherborne.

*Depts.*, Warry & Co., 70, Lincoln's-inn-fields, W. C.

**Durham**—Henry John Spearman, Esq., Burn Hall.

*Undersh.*, William Emerson Wooler, Esq., Durham.

*Dep.*, James Crowdy, Esq., 17, Sergeants'-inn, Fleet-street, E. C.

**Essex**—G. H. Irvington, Esq., London Park, near Colchester.

*Undersh.*, { James Inglis, Esq., Colchester.

*Depts.*, Gepp & Valey, Chelmsford. A. U.

**Gloucestershire**—Augustus Drake, Esq., Southernhay, Exeter.

*Undersh.*, E. Force, Esq., Deanery-place, Exeter.

*Dep.*, W. Moon, Esq., 15, Lincoln's-inn-fields, W. C.



- \* Gloucestershire**—William John Phelps, Esq., Chestal House, Dursley.  
*Undersh.*, John Burrupp, Esq., Gloucester.  
*Depts.*, White & Sons, 11, Bedford-row, W. C.
- \* Gloucester**—George W. Carrington, Esq., London-road, Gloucester.  
*Undersh.*, William Matthews, Esq., 15, College-green, Gloucester.  
*Dep.*, W. C. Smith, Esq., 31, Lincoln's-inn-fields, W. C.
- Hampshire**—Charles Seeley, Esq., Brook House, near Yarmouth, Isle of Wight.  
*Undersh.*, Thomas B. Woodham, Esq., Winchester.  
*Dep.*, R. F. Williams, Esq., 6, King's-bench-walk, Temple, W. C.
- \* Herefordshire**—A. R. B. Knight, Esq., Downton Castle.  
*Undersh.*, { John Lloyd, Esq., Ludlow.  
 { N. Lanwarne, Esq., Hereford. A. U.  
*Dep.*, G. F. Cooke, Esq., 35, Southampton-buildings, W. C.
- Hertfordshire**—James Bentley, Esq., Wood Green Park, Cheshunt.  
*Undersh.*, Longmore, Swarder, & Longmore, Hertford.  
*Depts.*, Hawkins & Co., 2, New Boswell-court, W. C.
- Hunts. & Camb.**—Right Hon. Philip Castell, Lord Sherrard, Glatton, Hunts.  
*Undersh.*, Clement Francis, Esq., Cambridge.  
*Depts.*, J. & C. Cole, 36, Essex-st, Strand, W. C.
- Kent**—Sir Courtenay Honeywood, Bart., Evington Place, Elmstead, Ashford.  
*Undersh.*, Robert Furley, Esq., Ashford.  
*Depts.*, Palmer & Co., 24, Bedford-row, W. C.
- \* Kingston-upon-Hull**—William Hodge, Esq., Holderness-road, Hull.  
*Undersh.*, Joseph C. Smith, Esq., Lowgate, Hull.  
*Depts.*, Clark & Co., 29, Coleman-street, E. C.
- \* Lancashire**—H. Garnett, Esq., Wyreside, near Lancaster.  
*Undersh.*, { John Sharp, Esq., Lancaster.  
 { Wilson, Deacon, & Wilson, Preston. A. U.  
*Depts.*, W. & H. P. Sharp, 150, Leadenhall-st., E. C.
- \* Leicestershire**—Edward Henshaw Cheney, Esq., Gadsdesby.  
*Undersh.*, William Gregory, Esq., (firm of Miles, Gregory, & Bouskell), Leicester.  
*Depts.*, Loftus & Young, 10, New-inn, Strand, W. C.
- \* Lichfield**—Henry William Playfair, Esq., Lichfield.  
*Undersh.*, John Philip Dyott, Esq., Lichfield.  
*Dep.*, S. B. Somerville, Esq., 48, Lincoln's-inn-fields, W. C.
- Lincolnshire**—Sir Glynn Earle Welby, Bart., Denton Hall.  
*Undersh.*, { Henry Beaumont, Esq., Grantham.  
 { H. Williams, Esq., Lincoln. A. U.  
*Depts.*, Taylor & Co., 28, Great James-street, Bedford-row, W. C.
- Lincoln**—Samuel Downing Roome, Esq., Lincoln.  
*Undersh.*, Thurston George Dale, Esq., Lincoln.  
*Depts.*, Taylor & Co., 28, Great James-street, Bedford-row, W. C.
- London**—Benjamin S. Phillips, Esq., 40, Newgate-street.  
*Undersh.*, O. C. T. Bagleton, Esq., 84, Newgate-street.  
*Depts.*, Secondaries Office, 5, Basinghall-st., E. C.
- Middlesex**—T. Gabriel, Esq., Commercial-road, Lambeth.  
*Undersh.*, Charles Gammon, Esq., 9, Cloak-lane.  
*Depts.*, Burchell & Hall, 24, Red Lion-square, W. C.
- \* Monmouthshire**—Hon. W. P. Rodney, Llanvihangel Court.  
*Undersh.*, W. Forster Batt, Esq., Abergavenny.  
*Dep.*, T. N. G. Gurney, Esq., 7, Furnival's-inn, W. C.
- \* Newcastle-upon-Tyne**—William Hawthorne, Esq., Benwell Cottage, Newcastle-upon-Tyne.  
*Undersh.*, James Henry Ingledon, Esq., Newcastle-upon-Tyne.  
*Depts.*, Williamson & Co., Great James-street, Bedford-row, W. C.
- Norfolk**—Henry Birkbeck, Esq., Stoke Holy Cross.  
*Undersh.*, { F. Gosling Foster, Esq., Norwich.  
 { C. Taylor, Oxford-place, Norwich. A. U.  
*Depts.*, Sharpe & Co., 41, Bedford-row, W. C.
- Northamptonshire**—William Capel Clarke Thorabill, Esq., Rushton Hall, near Kettering.  
*Undersh.*, George Henry Fisher, Esq., Market Harborough, Leicestershire.  
*Dep.*, A. B. Cowdell, Esq., 21, Abchurch-lane, E. C.
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**CHARLES MARSON** the elder, Loominster, Herefordshire, innkeeper, March 16 and April 13 at 11, Birmingham: Off. Ass. Whitmore; Sols. Hodgson & Alib, Birmingham; Stallard, Loominster.—Pet. d. Feb. 24.

**HANSKEL BALLEE**, Chesham, Gloucestershire, cabinet maker, March 20 and April 18 at 11, Bristol: Off. Ass. Acraman; Sols. Fritchard, 18, Great Knight-bridge-street, Doctors'-commons, London; Abbot & Co., Bristol.—Pet. f. Feb. 29.

**JOSEPH KERSHAW** and **WILLIAM GEORGE KERSHAW**, Wakefield, Yorkshire, stone-masons, March 18 and April 20 at 11, Leeds: Off. Ass. Young; Sols. Harrison & Smith, Wakefield; Bond & Barwick, Leeds.—Pet. d. and f. March 1.

**GEORGE CROOKS**, Leeds, Yorkshire, grocer, March 18 and April 20 at 11, Leeds: Off. Ass. Young; Sols. Cairns & Cudworth, Leeds.—Pet. d. and f. March 2.

**JOHN BOUCHER**, Blackwell, Derbyshire, dealer in timber, March 24 and April 22 at 10, Sheffield: Off. Ass. Brewin; Sols. Gamble, Derby.—Pet. d. and f. March 3.

**JOHN REYNOLDS WILLIAMS**, Sandbach, Cheshire, from-monger, March 19 and April 12 at 11, Liverpool: Off. Ass. Bird; Sols. Rymer, Liverpool.—Pet. f. March 5.

**THOMAS LEWIS**, Abergavenny, Monmouthshire, iron-monger, March 20 and April 18 at 11, Bristol: Off. Ass. Miller; Sols. Whittington & Gribble, Bristol; Gabb, Abergavenny.—Pet. f. March 3.

**MEETINGS.**

**Thomas Marshall**, Plymouth, Devonshire, builder, March 19 at 1, Plymouth, last ex.; April 2 at half-past 12, div.—**Tristram Posing**, Truro, Cornwall, grocer, March 14 at 12, Exeter, last ex.—**Grace Keener** and **Sophia Baillie**, Exeter, milliners, March 20 at 12, Exeter, last ex.—**John Stanton Miskin**, Rochester, Kent, butcher, March 27 at 12, London, aud. ac.—**John Cullton**, Ashton-under-Lyne, Lancashire, corn dealer, March 20 at 12, Manchester, aud. ac.—**Richard Statten**, Birmingham, draper, March 23 at 12, Birmingham, aud. ac.—**William James Webber**, Beigameuth, Devonshire, confectioner, March 21 at 12, Exeter, aud. ac.—**William Chellow**, Point, near Truro, Cornwall, commission agent, March 21 at 12, Exeter, aud. ac.—**Jonathan Owens, James Jones**, and **James Jones**, Wrexham, Denbighshire, leather dealers, March 16 at 11, Liverpool, aud. ac.—**Edo. H. Binsing**, Wells, Norfolk, draper, March 28 at half-past 12, London, div.—**Thomas Peters**, Llanvabon and Cwmbaeli, Glamorganshire, grocer, March 29 at 11, Bristol, fin. div.—**James Howarth**, Ashton-under-Lyne, Lancashire, linen draper, March 29 at 12, Manchester, div.—**Ann Cooper**, Haslingden, Lancashire, domestic manufacturer, March 29 at 12, Manchester, div.—**William A. Burton**, Coventry, surgeon, March 30 at 11, Birmingham, div.—**George John Brown**, Hartlepool, Durham, rope manufacturer, March 30 at 12, Newcastle-upon-Tyne, fin. div.—**James Warren**, East Stonehouse, Devonshire, licensed victualler, April 2 at half-past 12, Plymouth, div.—**John Petrie**, Plymouth and Devonport, confectioner, April 2 at half-past 12, Plymouth, div.

**CERTIFICATIONS.**

*To be attended, unless Cause be shewn to the contrary on or before the Day of Meeting.*

**John S. Miskin**, Rochester, Kent, butcher, March 27 at 12, London.—**Robert T. Couling**, Princes-road, Lambeth, Surrey, omnibus proprietor, April 3 at 1, London.—**James Warren**, East Stonehouse, Devonshire, licensed victualler, April 2 at half-past 12, Plymouth.—**Wm. Chellow**, Point, near Truro, Cornwall, commission agent, April 4 at 12, Exeter.—**Wm. John Sorbkin**, Plymouth, Devonshire, butcher, April 2 at half-past 12, Plymouth.—**James Thomas**, Bolton, Lancashire, tailor, March 28 at 12, Manchester.—**Wm. St. Lowell**, Birmingham, plumber, March 30 at 11, Birmingham.—**William J. T. Smith**, Birmingham, fancy paper manufacturer, March 30 at 11, Birmingham.—**M. Broadbury** and **G. Weaver**, Tunstall, Staffordshire, drapers, March 23 at 11, Birmingham.—**Wm. Johnson**, Mountsonell, Leicestershire, innkeeper, March 27 at half-past 11, Nottingham.—**Wm. Morris** and **Wm. West**, Kingston-upon-Hull, drapers, March 28 at 12, Kingston-upon-Hull.

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**Henry Hicks**, King David-lane, Shadwell, Middlesex, glass cutter.—**James Wyaherley**, Adderbury, Oxfordshire, maltster.—**Charles Moody**, Portsea, Southampton, edge-tool manufacturer.—**Robert W. Peast** and **Henry Peast**, Victoria-road, Lower-road, Islington, Middlesex, export oilmen.—**Jas. Crocker**, Nottingham, hosiery.—**Thomas Read**, Nottingham, builder.—**John Cartwright**, Nottingham, innkeeper.—**S. Mearns**, Nottingham, lace maker.

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James Morris, Esq.

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Henry R. Reynolds, Esq.

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John Thornton, Esq.

James Tulloch, Esq.

### AUDITORS.

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John Henry Smith, Esq.

Henry Sykes Thornto, Esq.

Cornelius Payne, Jun., Esq.

Thos. Tallemach, Esq., Secretary.—Samuel Brown, Esq., Actuary.

**LIFE DEPARTMENT.**—Under the provisions of an Act of Parliament, this Company now offers to future Insurers EIGHTY PER CENT. of the PROFITS, with Quinquennial Division, or a low Rate of Premium without participation of Profits.

The next Division of Profits will be declared in June, 1860, when all Participating Policies which shall have subsisted at least one year at Christmas, 1859, will be allowed to share in the Profits.

At the Five Divisions of Profits made by this Company, the total Reversionary Bonuses added to the Policies have exceeded 913,000l.

At the last valuation, at Christmas, 1854, the Assurances in force amounted to upwards of 4,240,000l., the Income from the Life Branch in 1854 was more than 200,000l., and the Life Assurance Fund, after division of Profits, (independent of the Guarantee Capital), exceeded 1,540,000l.

**LOCAL MILITIA AND VOLUNTEER CORPS.**—No extra premium is required for service therein.

**INVALID LIVES.**—Persons who are not in such sound health as would enable them to insure their Lives at the Tabular Premiums may have their Lives insured at Extra Premiums.

**LOANS** granted on Life Policies to the extent of their values, provided such Policies shall have been effected a sufficient time to have attained in each case a value not under 50l.

**ASSIGNMENTS OF POLICIES.**—Written Notices of, received and registered.

**MEDICAL FEES** paid by the Company, and no charge will be made for Policy Stamps.

**NOTICE IS HEREBY GIVEN**, that Fire Policies which expire at Lady-day must be renewed within fifteen days at this Office, or with Mr. SAMS, No. 1, St. James's-street, corner of Pall-mall; or with the Company's Agents throughout the Kingdom; otherwise they become void.

Losses caused by Explosion of Gas are admitted by this Company.

**CURE of a FOURTEEN YEARS' ASTHMATIC COUGH** by Dr. LOCOCK'S PULMONIC WAFERS.—"I, Thomas Carter, Egremont, Cheshire, had an asthmatic cough for fourteen years; nothing ever gave me relief until I commenced taking Dr. Locock's Pulmonic Wafers, three boxes of which have entirely cured me. (Signed) THOMAS CARTER. Witness—Mr. George Howell, Chemist, Dale street, Liverpool." To Singers and Public Speakers they are invaluable for clearing and strengthening the voice. They have a most pleasant taste. Price 1s. 1jd., 2s. 9d., and 11s. per box. Sold by all chemists.

**BENSON'S WATCHES.**—"PERFECTION OF MECHANISM."—*Morning Post*.—Gold, 4 to 100 guineas; Silver, 2 to 50 guineas. Send two stamps for Benson's Illustrated Watch Pamphlet. Watches sent free to any part of the Kingdom on receipt of a remittance.—33 and 34, Ludgate-hill, London, E. C. Established 1749.

## GAZETTES.—FRIDAY, March 9.

## BANKRUPTS.

**NATHANIEL SYMONS**, St. Pancras Ironfoundry, Cambridge-street, St. Pancras, Middlesex, ironfounder, March 19 at half-past 11, and April 23 at 11, London: Off. Ass. Pennell; Sols. Leakey & Everingham, 9, Old Jewry-chambers, Old Jewry, London.—Pet. f. March 1.

**THOMAS WEARE HOPKINS**, King's-road, Chelsea, Middlesex, hosier, March 19 at half-past 11, and April 23 at 12, London: Off. Ass. Pennell; Sol. Hope, 9, Ely-place, Holborn.—Pet. f. March 8.

**SAMUEL BOTHWELL**, Dorking, Surrey, builder, March 21 at 12, and April 18 at 1, London: Off. Ass. Graham; Sols. J. & J. H. Linklater & Co., 7, Walbrook, London.—Pet. f. March 6.

**CHARLES MARSON** the elder, Leominster, Herefordshire, innkeeper, March 16 and April 13 at 11, Birmingham: Off. Ass. Whitmore; Sols. Stallard, Worcester; Hodgson & Allen, Birmingham.—Pet. d. Feb. 24.

**JOHN GREEN LEEMAN**, Ilkeston, Derbyshire, draper, March 20 and April 17 at half-past 11, Nottingham: Off. Ass. Harris; Sol. Buttery, Nottingham.—Pet. d. March 2.

**RICHARD GOODACRE**, Nottingham, grocer, March 22 and April 17 at half-past 11, Nottingham: Off. Ass. Harris; Sols. Cowley & Everall, Nottingham.—Pet. d. March 3.

**CHARLES MOTTRAM CHEETHAM**, Worksop, Nottinghamshire, woollendrapery, March 31 and April 28 at 10, Sheffield: Off. Ass. Brewin; Sol. Gamble, Derby.—Pet. d. and f. March 7.

**WILLIAM MONCRIEF BELL**, Liverpool, draper, March 19 at 12, and April 16 at 11, Liverpool: Off. Ass. Morgan; Sol. Husband, Liverpool.—Pet. f. March 7.

## MEETINGS.

*Thos. Lightfoot*, Sunderland, Durham, shipbuilder, March 19 at 12, Newcastle-upon-Tyne, last ex.—*James Kewis*, Old-street, St. Luke's, Middlesex, licensed victualler, March 22 at 11, London, aud. ac.—*Richard Castle*, Wantage, Berkshire, cattle dealer, March 19 at 2, London, aud. ac.—*S. Turner Jay*, Hadleigh, Suffolk, miller, March 21 at half-past 11, London, aud. ac.—*William Phillips*, Norwich, leather cutter, March 20 at 11, London, aud. ac.—*David Simpson*, Hatton-garden, Middlesex, goldsmith, March 27 at 2, London, aud. ac.—*James Street*, Bristol, confectioner, March 22 at 11, Bristol, aud. ac.—*Ann Cooper*, Haslingden, Lancashire, domestic manufacturer, March 23 at 12, Manchester, aud. ac.—*Montgomerie Gladstone and Joseph Creevy Bond*, Manchester, general brokers, March 20 at 12, Manchester, aud. ac.—*Samuel Hanks*, Birmingham, coal dealer, March 21 at 11, Birmingham, aud. ac.—*John Morley Pearson*, Coatham, near Redcar, Yorkshire, builder, March 22 at 11, Leeds, aud. ac.—*Charles Henry Jelley*, Oundle, Northamptonshire, timber merchant, March 30 at half-past 11, London, div.—*Robt. Dunk*, Uxbridge, Middlesex, grocer, March 30 at 11, London, div.—*Vincent Somalvico*, Charles-street, Hatton-garden, Middlesex, manufacturing optician, March 30 at 11, London, div.—*Charles Wooltorton*, West Smithfield, London, ironmonger, March 30 at 1, London, div.—*Richard Henry Longstaff*, Brewer-street, Somers-town, Middlesex, draper, March 30 at half-past 12, London, div.—*Matthew Bambridge*, King's Lynn and Dersingham, Norfolk, carpenter, March 30 at 1, London, div.—*John Marks*, Bell-street, Paddington, and Long-acre, Middlesex, and Melbourne, Australia, coachmaker, March 31 at 11, London, div.—*Robert Feast*, Finsbury-pavement, and Little Moorfields, City, Italian warehouseman, March 30 at 2, London, div.—*Walter Shrimpton*, Compton and Bishopstoke, near Winchester, Hampshire, dealer and chapman, March 30 at 11, London, div.—*S. Adams*, Ware, Hertfordshire, banker, March 30 at half-past 1, London, div.—*James B. Williams*, Bristol, wine merchant, April 5 at 11, Bristol, div.—*Jonathan Owens*, *James Jones*, and *James Jones*, Wrexham, leather dealers, April 2 at 11, Liverpool, div.

## CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*Charles Lambourn*, Chiswick, and Salisbury-wharf, Strand, Middlesex, barge builder, March 30 at 12, London.—*George*

*Batters*, Hatcham, Surrey, starch manufacturer, March 30 at half-past 1, London.—*Walter Shrimpton*, Compton and Bishopstoke, near Winchester, Hampshire, dealer and chapman, March 30 at 11, London.—*Wm. Strange*, Strand, Middlesex, printer, March 31 at 11, London.—*E. T. Shadwick*, Penarth, near Cardiff, Glamorganshire, common carrier, April 3 at 11, Bristol.—*James Street*, Bristol, confectioner, April 2 at 11, Bristol.—*Edward Hashins*, Shortwood, Pucklechurch, Gloucestershire, horse dealer, April 3 at 11, Bristol.—*Wm. James Webber*, Teignmouth, Devonshire, baker, April 4 at 12, Exeter.—*John Jones*, Tunstall, Staffordshire, ironmonger, March 30 at 11, Birmingham.—*Wm. Bonnell*, Birmingham, licensed victualler, April 2 at 11, Birmingham.—*Joseph Varley*, King's Mill, near Huddersfield, Yorkshire, yarn spinner, April 16 at 11, Leeds.—*George Dixon*, *William Dixon*, and *Joseph Dixon*, Storr's Bridge, Ecclesfield, Yorkshire, steel rollers, March 31 at 10, Sheffield.—*Henry Moss*, Leeds, Yorkshire, draper, March 30 at 11, Leeds.

*To be granted, unless an Appeal be duly entered.*

*Job M. Smith*, Lincoln, draper.

## SCOTCH SEQUESTRATIONS.

*Robert Thompson*, Bishopplough, Hawkesdale, Dolston, Cumberland, innkeeper.—*Mrs. Mary Lade or Morris*, Largs.

## TUESDAY, March 13.

## BANKRUPTS.

**WILLIAM ELLIS**, Pennyfields, Poplar, Middlesex, ship joiner, March 24 and April 25 at 12, London: Off. Ass. Graham; Sol. Aubin, 38, Moorgate-street, London.—Pet. f. March 9.

**EMILIE WEISSE**, Piccadilly, Middlesex, milliner, March 22 at 11, and April 19 at 1, London: Off. Ass. Johnson; Sol. Doughty, 28, Great Marlborough-street.—Pet. f. March 12.

**SAMUEL STEVENSON**, Leicester, dealer in yarns, March 27 and April 17 at half-past 11, Nottingham: Off. Ass. Harris; Sol. Hawker, Leicester.—Pet. f. March 12.

**JAMES HASELL**, Bristol, soap manufacturer, March 26 and April 23 at 11, Bristol: Off. Ass. Miller; Sols. Peters & Miller, Bristol.—Pet. f. Feb. 29.

**THOMAS LOFTHOUSE**, Sheffield, Yorkshire, coal dealer, March 31 and April 28 at 10, Sheffield: Off. Ass. Brewin; Sols. Branson & Son, Sheffield.—Pet. d. March 9; f. March 10.

**DAVID GREEN**, Sheffield, Yorkshire, joiner, March 31 and April 28 at 10, Sheffield: Off. Ass. Brewin; Sol. Parker & Son, Sheffield.—Pet. d. and f. Feb. 29.

## MEETINGS.

*Robinson Cross*, Hagworthingham, Lincolnshire, grocer, April 18 at 12, Kingston-upon-Hull, last ex.—*Thomas Simons*, Hurst, Berkshire, cattle salesman, March 23 at half-past 11, London, aud. ac.—*Charles Lambourn*, Chiswick, and Salisbury Wharf, Strand, Middlesex, barge builder, March 30 at 12, London, aud. ac.—*Joshua Lattimore*, Sandridge, near St. Albans, Hertfordshire, timber merchant, March 29 at 12, London, aud. ac.—*Samuel Adams*, Ware, Hertfordshire, banker, March 23 at 2, London, aud. ac.—*Matthew Bambridge*, King's Lynn and Dersingham, Norfolk, carpenter and builder, March 23 at 2, London, aud. ac.—*Edward Gibson*, Brook's-mews, Brook-st., Gloucester-place, Hyde-park-gardens, Middlesex, job master, March 23 at half-past 1, London, aud. ac.—*Thomas Morris*, Newbridge, Glamorganshire, grocer, April 5 at 11, Bristol, aud. ac.; April 19 at 11, fin. div.—*Wm. Mayes*, Birmingham, grocer, March 26 at 11, Birmingham, aud. ac.—*John Young*, Bilston, Staffordshire, roll turner, March 30 at 11, Birmingham, aud. ac.—*Abel Hinchliffe*, Sheffield, Yorkshire, printer, March 24 at 10, Sheffield, aud. ac.—*Samuel John Back*, Kingston-upon-Hull, tailor, April 25 at 12, Kingston-upon-Hull, aud. ac. and div.—*John Shawcraft Hamilton*, Kingston-upon-Hull, auctioneer, April 25 at 12, Kingston-upon-Hull, aud. ac. and div.—*T. Hipkins* and *C. Carey Sumner*, Hillingdon, near Uxbridge, Middlesex, plate-glass manufacturers, April 4 at half-past 12, London, div. joint est.; at 1, fin. div. sep. est. of *C. Carey Sumner*.—*E. Masters*, Mark-lane, City, wine merchant, April 3 at 12, London, div.—

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THE JURIST.

LONDON, MARCH 17, 1860.

THERE is no class in the community which is more deserving of our commiseration, or whose peculiar situation more demands our care and attention, than those unfortunate beings who, afflicted with insanity or mental infirmity, are unable to take care either of themselves or of their property.

In former times, not far distant, the treatment of lunatics was most disgraceful; chains and the lash were applied as a punishment for the results of mental aberration, and those who, under a different treatment, might have been restored to the use of their reason, were rendered hopeless lunatics or raving madmen. So little, indeed, were the feelings of these unfortunate beings regarded, that they were exhibited as a public show, and people went to gaze at the inmates of Bedlam in the same manner, and with much the same motives, as they would view a menagerie of wild beasts.

Thanks, however, to those philanthropists who, after much labour, and after being often foiled, induced a healthier state of public feeling, and an entirely different mode of practice in the treatment of the insane. Kind attentions, and, as far as is consistent with safety, personal freedom, have been substituted for harshness, cruelty, and mechanical restraint. The result is, that in many cases the patient recovers, who, under the old mode of treatment, would in time have become hopelessly insane, and in most cases—at any rate where the new system of treatment is fairly carried out—the lu-

natic enjoys as great a degree of comfort as his unhappy situation is capable of.

Still, even in these times, in order to guard against obvious abuses, considerable and continual vigilance is required on the part of those whose duty it is to superintend the operation of our lunacy laws, and the regulations laid down by them. Relatives of alleged lunatics are not in all cases indifferent to a reversionary interest in their property; and those who have establishments for their reception are not altogether disinterested, and in some cases may regard their own profits almost as much as the welfare and recovery of their patients.

It becomes, therefore, a matter of the highest importance, in the first place, that no person should be unduly placed or kept in restraint; and in the second place, that, while properly kept in restraint, they should be treated in such a manner as will most conduce to their comfort and ultimate recovery. Above all things, it becomes especially the duty of the State to take care of those amongst the poor who are unfortunately insane—of those, in fact, whom the law terms "pauper lunatics." Their relations or friends, should they have any, are rarely able, even if willing, properly to care for or maintain them; and the evils of allowing them to go roving about the country, or to be placed in workhouses, where they will seldom, if ever, meet with the treatment their peculiar cases demand, are obvious to all who consider the subject.

The law for the protection of the sane from imprisonment on an ignorant or malicious charge of insanity, and the law for the care and treatment of the insane

inhabitants of this country, are once more the important subjects of an inquiry by a select committee of the House of Commons. To this fact we would call public attention; for although a vast progressive reform has taken place in these laws during the last thirty years, no thinking person will deny that there is yet room for amendment in that quarter, and that great vigilance is still necessary to prevent a relapse into the frightful abuses of past days.

From the evidence taken last year before a committee of the House of Commons we gather that our insane pauper population loudly demands attention; that there is also a lack of proper provision for the wants of the lunatic of that large class of our fellow-countrymen who cannot meet the expenses of a private asylum; but that in other respects a more efficient execution of the laws in force, rather than any reform of the laws themselves, is necessary. Although an act of Parliament, which passed in the year 1853, enacted that every county and borough not having an asylum should, within a period long since expired, provide for its insane poor, either by contract for their board and lodging in an asylum or hospital, or by erection, separately, or jointly with another county or borough, of an asylum, yet it is a fact that several counties, and many boroughs, have ever since neglected to obey the law, and that there now exists scattered over the country a crowd of insane, helpless beings, who, but for such neglect, might have been at this moment in the full enjoyment of their reason. There is no justification for this disobedience of the law of the land; but, of course, many are the excuses given by the county and borough magistrates to whom the disobedience is charged. A different complexion may, doubtless, be given to the case in the course of the inquiry now pending; but at present a jealousy of interference between the county and borough magistrates, added to a niggardly and short-sighted financial policy, looks like the beginning and end of the difficulty.

Where it is inexpedient that a borough, on account of its scanty population, should have a separate asylum, we see no good reason why the reception of its insane poor into the adjoining county asylum should not be compulsory, the terms of such reception being regulated, if the county and borough magistrates differed, by the Commissioners in Lunacy or the Home Office. Of course many boroughs can afford, and should be compelled, to provide their own separate asylums. Under no plea should the insane pauper be admissible into a workhouse. Of no disorder can it be affirmed more positively than of insanity, "*vires acquirit eundo*;" and yet, to save a little present outlay at the price of a future permanent tax, it is the practice of our magistracy to detain, in places alike unsuited for their cure or detention, and at a period when their malady is most curable, the pauper victims of that disorder. Hitherto it has been left to the magistrates, the overseers of the poor, and the parish doctors, to determine on the probability of a pauper's recovery from a disorder of which they collectively and individually know nothing, and by their fiat to shut the door of recovery. We hope to see this state of things altered. All insane paupers, chronic and others, should go to the county or borough asylum, and in the early stage of their

disorder; there they all should remain, classified doubtless by the medical superintendents, until their cure or death. To remit chronic cases from the asylums to the workhouses, or their poor relatives, seems highly objectionable, fraught with misery to the patients and danger to the public. We see not why the cost of maintaining lunatic patients in an asylum should be higher than that of keeping the same patients in a workhouse, assuming that in both establishments the proper care and treatment is adhered to; and we see more chances at least of recovery in the quiet discipline of an asylum, and the constant supervision of its medical superintendent, than in the noisy freedom of a workhouse, and the casual visits of a general medical practitioner. The question of erecting asylums to any extent, at the public cost, for the reception of persons other than paupers, opens out a large field for discussion; and of course there is much to be said for and against their erection. This subject, we are inclined to think, should be further ventilated: the evidence already collected scarcely yet justifies a judgment one way or the other. In regard to the number of single patients unknown to, and therefore not visited by, the Commissioners in Lunacy, we venture to think that one prosecution, for the offence of their reception without certificate or notice to the commissioners, would alarm the delinquents, and rectify the evil. As to the management of the persons and property of lunatics found so by inquisition, we really see no great cause of complaint: the visitors in lunacy should certainly visit more frequently; but the Lord Chancellor, or the board of directors, can now give the necessary directions on that head, and he or they should do so. The average cost of an inquisition (75*l*.) does not sound extravagantly high, nor does the present scale of per-centage payments for the administration in lunacy. The alleged Lunatics' Friend Society were heard through their chairman and secretary last year, by the committee, but their complaints were somewhat far-fetched and trivial. We feel disposed, however, to agree with the secretary in his remarks on the total unfitness of a practising solicitor for the office of registrar in lunacy. The integrity and ability of the present registrar is not doubted, but no loophole should be left for suspicion. His position, we think, should be permanent, and he should be debarred from practice, directly or indirectly, in like manner as the registrars of the Court of Chancery. The erection of a State asylum for criminal lunatics we hail as a step in the right direction; the policy of ever discharging criminal lunatics is another matter, and, to say the least, doubtful.

To conclude: our system of lunacy mainly depends, we believe, for its efficacy, on the commissioners, masters, visitors, and other officials in lunacy. Much power and a large discretion must inevitably be lodged in their hands; but in proportion to the duty so must be the responsibility in this department. Least of all can we afford to pay servants incapacitated by years, or from any cause whatever, deficient in mental or physical energy. Harmony in action leads to success, but, as Englishmen, we are also taught to believe that the friction of independent opinions is likewise beneficial. When, therefore, we read in the minutes of Lord Shaftesbury's evidence "that the Lunacy Commission has subsisted for thirty years, and never had but one



division," and that the commissioners gathered round a "perpetual nucleus," we trust that statement does not imply that "the perpetual nucleus" is one individual opinion, even though it should be that of Lord Shaftesbury himself.

## REGULA GENERALIS.

### ORDERS OF COURT.—March 6, 1860.

THE Right Hon. JOHN Lord CAMPBELL, Lord High Chancellor of Great Britain, by and with the advice and assistance of the Right Hon. Sir JOHN ROMILLY, Master of the Rolls, the Right Hon. the Lord Justice Sir JAMES LEWIS KNIGHT BRUCE, the Right Hon. the Lord Justice Sir GEORGE JAMES TURNER, the Hon. the Vice-Chancellor Sir RICHARD TORIN KINDERSLEY, the Hon. the Vice-Chancellor Sir JOHN STUART, and the Hon. the Vice-Chancellor Sir WILLIAM PAGE WOOD, doth hereby, in pursuance and execution of all powers and authorities enabling him in that behalf, order and direct in manner following:—

1. From and after the 16th April, 1860, the practice of ingrossing answers on parchment shall be discontinued, and a defendant (except as otherwise provided by Order No. 5) is to file his answer, written bookwise upon paper of the same size and description as that on which bills are printed.

2. At the time when a defendant files his answer he is to leave with the Clerks of Records and Writs a fair copy thereof, (without the schedules, if any, of accounts or documents), and the Clerks of Records and Writs are to examine and correct such copy with the answer filed, and return it, so examined, with a certificate thereon that it is correct and proper to be printed.

3. A defendant is then to cause his answer to be printed from such certified copy, on paper of the same size and description, and in the same type, style, and manner, on and in which bills are required to be printed, and, before the expiration of four days from the filing of his answer, is to leave a printed copy thereof with the Clerks of Records and Writs, with a written certificate thereon by the defendant's solicitor, or by the defendant if defending in person, that such print is a true copy of the copy of the answer so certified; and if such printed copy shall not be so left, the defendant shall be subject to the same liabilities as if no answer had been filed.

4. At any time after the expiration of such four days, the defendant, within forty-eight hours after the same shall have been demanded in writing, is to have ready for delivery to the plaintiff an official and certified printed copy of the answer.

5. Notwithstanding the preceding Orders, a defendant is to be at liberty to swear to and file a printed answer.

6. On receiving from the plaintiff a demand for an official and certified printed copy of the answer, the defendant is to get a printed copy thereof examined by the Clerks of Records and Writs with the answer as filed, and to stamp such copy with a Chancery stamp for 5s.; and the Clerks of Records and Writs, on finding that such copy is duly stamped and correct, are to certify thereon that the same is a correct copy, and to mark the same as an office copy.

7. Such copy is, on demand, to be delivered to the plaintiff, who, on receipt thereof, is to pay to the defendant the amount of the stamp thereon, and at the rate of 4d. per folio for the same.

8. The plaintiff is also to be entitled to demand and receive from the defendant any additional number of

printed copies of his answer, not exceeding ten, on payment for the same at the rate of one halfpenny per folio.

9. After all the defendants who are required to answer shall have filed their answers, a co-defendant is to be entitled to demand and receive from any other defendant any number of printed copies of his answer, not exceeding six, on payment for the same at the rate of one halfpenny per folio.

10. Office copies of schedules to answers of accounts or documents are to be obtained according to the practice now existing for obtaining office copies of answers.

11. Where a plaintiff is required to answer interrogatories, he is to file his answer thereto, and to get such answer printed, and to furnish printed copies thereof, in the same manner as a defendant is by these Orders required to do with respect to his answer.

12. The Clerks of Records and Writs are not to certify or mark any printed copy of an answer which has any alteration or interlineation in writing.

13. No costs are to be allowed, either as between party and party or as between solicitor and client, for any written brief of an answer, unless the Court shall direct the allowance thereof.

14. Solicitors are to be entitled to charge the fees mentioned in the schedule hereto.

15. These Orders are not to apply to answers filed by defendants or by plaintiffs defending or suing in forma pauperis, except Order 1.

16. Written bills, pleas, demurrers, special cases, duplicates of summonses originating proceedings in chambers, records for trial, interrogatories, examinations, traversing notes, replications, supplemental statements, exceptions, and certificates, to be filed in the office of the Clerks of Records and Writs, are to be written on paper of the same description and size as that on which bills are printed.

Affidavits to be filed in the office of the Clerks of Records and Writs are to be written on foolscap paper bookwise. Depositions of witnesses are to be written on foolscap paper bookwise or briefwise, as the examiner may think fit: provided, nevertheless, that the Clerks of Records and Writs may receive and file affidavits and depositions written otherwise than as here directed, if, in their opinion, the circumstances of the case render such reception and filing desirable or necessary.

17. In these Orders the following words have the several meanings hereby assigned to them, over and above their several ordinary meanings, unless there be something in the subject or context repugnant to such construction; that is to say, words importing the singular number include the plural number, and words importing the plural number include the singular number, and words importing the masculine gender include females.

## SCHEDULE.

	Lower Scale.	Higher Scale.
For instructions for brief in a suit by bill on cause coming on for hearing, to be charged on service of notice of motion for a decree, or on service of subpoena to hear judgment .....	£1 1 0	£2 2 0
The solicitor of the party answering interrogatories, for perusing the interrogatories .....	0 6 8	0 13 4
If exceeding forty folios, at per folio .....	0 0 0	0 0 4
The solicitor of the party filing an answer, for his attendances on the Record and Writ Clerks, with and for the written and printed copies of the answer, and for certifying ..	0 6 8	0 13 4

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## DEATH OF MR. BARON WATSON.

It is our painful duty to record the sudden death of Mr. Baron Watson, which took place on Tuesday last, while engaged in the discharge of his judicial functions. At the conclusion of his charge to the grand jury at the Montgomeryshire Assizes, at Welshpool, his Lordship, who had been for some weeks in ill-health, was observed to put his handkerchief to his face and a smelling-bottle to his nose. He leant back in his chair, and it was evident that something more than a fainting fit had seized him. Several medical gentlemen were immediately in attendance, and every means were resorted to that medical skill could devise, but he grew gradually worse, and a sofa cushion having been procured, he was laid upon it and conveyed to his lodgings, which were close at hand. He had scarcely reached them when he breathed his last. It was stated by the medical attendant to be a case of serous apoplexy. His Lordship's son, who was attending the circuit, was, of course, present with him when he expired. Perhaps, with the exception of the lamented death of the late Mr. Justice Talfourd, no similar event has occurred which has created such a deeply painful sensation.

The deceased judge, who was born in 1796, was educated at the Royal Military College, Marlow, and entered the army as cornet in the 1st Royal Dragoons in 1811, became a lieutenant in 1812, and after having served in Spain and France under the Duke of Wellington, exchanged to the 6th Dragoons, with whom he served in Belgium and France in 1815. Having retired from the army, he entered as a student of Lincoln's Inn in 1817, and practised for several years as a special pleader; he was called to the Bar in Lincoln's Inn in 1832, made a Q. C. and a Bencher of that Inn in 1843, and was appointed a Baron of the Court of Exchequer in November, 1856, when he received the honour of knighthood. He was the author of two legal works, was M. P. for Kinsale from 1811 to 1847, and for Hull from 1854 to 1856.

## THE LATE MR. JARMAN.

THE following extract\* from a letter by Mr. Hayes contains an unexaggerated tribute to Mr. Jarman's moral character. His merits as a text-writer cannot be better expressed than in a panegyric from the same pen, which we always thought less characteristic of the judge to whom it was addressed than of him whose name was appended to it:—

"In tracing the learning of devises through the late reports, how often do we find your Lordship reviewing a long line of authorities, noting their distinctions, correcting their errors of fact and law, and finally extracting or supplying a principle on whose broad and solid basis a multiplicity of questions, which must otherwise

have called for repeated adjudication, may satisfactorily rest\*."

Nothing, indeed, is more admirable than the vigilance and perspicacity with which Mr. Jarman criticised the authorities on every legal subject that came under his notice. Not captious or anxious to detect a slip, but rather best pleased when he found decision and principle most completely at one, yet he was never satisfied to let a case pass until he saw a solid foundation of principle beneath.

His power was as great in classifying his materials as in criticising them, and, perhaps unconsciously, he chose to exercise it chiefly in that department of legal science which most needed and would best reward his pains—the department of construction—which, as it has been, more than any other, the spontaneous growth of circumstances, unaffected by arbitrary regulation, is also, more than any other, intimately harmonious and consistent, while apparently confused and immethodical—the leading principle of decision, oftener felt than expressed, running through the cases, and binding them together into a tangled chain, seldom impaired, though all disordered.

His Treatise on Wills, like his edition of Powell on Devises, is rather a collection of detached essays than a complete work, which, indeed, would have been almost beyond his power, even had he devoted his whole professional life to that single task. Some notion of the mass of material which he has left untouched may be gained by turning over the pages of the last edition of Roper's Treatise on Legacies, (2 vols., 1847)—a work in which the decisions on testamentary questions scarcely noticed by Mr. Jarman are accumulated rather than arranged; and the immense value of the working tool which Mr. Jarman has given to the Profession is felt whenever Roper is resorted to for aid in some research beyond the scope of the Treatise on Wills. We do but bare justice to Messrs. Wolstenholme & Vincent in adding that their labours have fully maintained the value of the book.

The appointment of Mr. Jarman as one of the conveyancing counsel of the Court of Chancery, after the abolition of the Masters, was as good an exercise as could be made of a power which ought never to have been conferred—unjust, as it necessarily was, to the Profession, and most injurious, as it has been found to be, to the suitors†.

"I fear there are names on the list of departures which call up other feelings, and excite a very different interest. Of those the most recent (dating a quarter past three a.m. last Sunday week) is that of Thomas Jarman, one of my oldest professional as well as private friends, and my coadjutor in the 'handy' volume of 'Concise Wills.' Erysipelas was the fatal disease. Those works which are now in every counsel's and judge's hands were composed under physical difficulties over which nothing but moral courage, almost heroic, could have triumphed—the works of a laborious valitudinarian and energetic cripple. The earlier, and indeed greater, part of his life was spent 'in helping' (to use his own words) 'other men into their carriages,' or at any rate to easier seats in their carriages. As a lawyer he was entirely self-educated, with the exception of such schooling (not completed) as the practice of a Bristol attorney's office could supply; and with this minimum of instruction, and his own much larger unindebted acquisitions, aided by a strong yet modest consciousness of power, the raw youth came to London scarcely less well prepared, or in any respect less competent, to write

\* Dedication to Lord Eldon—Jarman's Powell on Devises.

† Mr. Dart has been appointed in Mr. Jarman's place—a selection much more satisfactory than the continuance of the office.

\* Copied from *The Solicitors' Journal* for March 10.

a standard work on Wills (or even to supply that grand desideratum, a treatise on instruments generally) than at any after period of his professional life. His habits of study throughout a considerable portion of the period which produced his 'Wills' and his 'Conveyancing' were primitive and pastoral. He read, thought, and worked in the open air; his study a garden, green lane, or paddock, and that under all skies, and in all weathers, and through all seasons. Of the work done in chambers much was done in severe weather, with open windows, and without a fire. Though I could not quite harden myself to those extremes, yet our tastes were so far alike that it was our wont on those early days of 'Jarman's Powell' to discuss points, and settle them very much to our own satisfaction, and eventually, in some instances, to the satisfaction of the judicature, at Jack Straw's Castle, the Woodman of Old Norwood, and on the Cotswold. I well remember, on reading in manuscript the chapter which treats of cross-remainders, being so much struck with its lucid mastery of the subject, that I immediately took it to my acuter and more experienced friend, R. H. W. Ingram, then practising in the Temple, who at once acknowledged its superiority to Cruise, then, and, to the discredit of Bar and Bench, for some years afterwards, cited as oracular. The proofs were supervised by both, but with more critical attention by Ingram, who contributed more or less to the accuracy of Jarman's labours; but the whole amount of such aids left the sterling and staple matter of the annotations and supplementary volume exclusively the product of the editor's own talent and research, under circumstances far from propitious. When all was ready for publication a patron was to be sought, and Lord Eldon was obviously the fittest name for such a work. Jarman sketched out a dedication, and, being then our visitor at Peckham, read it to us in the evening; but I objected to its wanting spice and unction, and came down the next morning with something more easy, against which Jarman in his turn protested, but which, somewhat lowered in its tone of adulation, he rather reluctantly adopted; and this is the dedication which, I think, Horace Twiss, in his 'Life of Lord Eldon,' cites, among other testimonials, in proof of the high judicial reputation of the greatest of the Great Seals of the later time. The progress of 'Jarman's Powell' was slow and obscure. Powell was a caput mortuum, weighing down a living body of sound law; Jarman a vitality, dragging about with him a sort of semi-defunct Frankenstein. I have an impression, but it may be erroneous, that Mr. Baron Parke was among the first to discover the value of the work on Wills, and bring it into court, though probably it first struck root in the dusty chambers of conveyancers, and thence gradually spread over Westminster Hall, where very possibly it may have assisted in the solution of many a problem before it found either the hardihood or candour requisite to cite and commend it as a text-book. Sweet, the publisher, used to insinuate, as I understood Jarman once to say, that a book on *Devises* was 'caviare to the general,' and that a much brisker sale would have been insured by the more intelligible title of a treatise on *Wills*. In this there may have been something of sly irony. By the way, in any sketch of Jarman's professional career, justice ought to be done to Sweet as a bold and liberal patron of young untied legal writers. Poor Jarman's labours were repeatedly suspended, sometimes apparently brought to a final close, by serious illness; first (while Powell was in hand) by an affection of the eyesight; then by an abscess, extending nearly from hip to heel, and terminating in a fixed limb; and more recently by an attack so severe that both body and mind were supposed to be hopelessly prostrated; but he survived these and other trials, to resume and complete his laborious undertakings, and work on at conveyancing generally, but

more especially the case department, with increasing reputation and practice to the last. Nothing could subdue his fortitude or disturb his equanimity. 'Æquam memento rebus in arduis servare mentem' was the pagan motto of the Christian soldier."

## THE PROPOSED STAMP DUTY ON AGREEMENTS FOR LEASES.

THE following judicious remarks on this part of Mr. Gladstone's scheme are by Mr. Hopgood, of King William-street:—

"First, it is proposed to make the *temporary* (and oftentimes loosely drawn) *document* or *memorandum*, which sometimes precedes a lease, the *principal document*, by impressing on it the stamp which the lease ought to bear, leaving the lease to bear a denoting stamp. This will render the preliminary document a necessary part of the title to the leasehold interest at all future times, and will constantly give rise to questions which will seriously complicate leasehold titles, and may also complicate the ground landlord's title in cases where leases are granted under leasing powers. It is a fundamental rule in conveyancing to keep all unnecessary documents off the title, and this cannot be done if the proposed change in the law should take place. This objection applies to the subject generally.

"Secondly, it will be unfair to charge a landlord with duty on a lease which may never (through the default of the intended tenant) be granted. This objection will be a serious one in cases of agreements for building leases, which are frequently thrown up, owing to the inability of the builder to carry out his contract; and even if the burthen of the stamp be thrown in the first instance on the builder, it may be oppressive to him.

"Thirdly, with reference to contracts for building leases, i. e. where a person takes a plot of ground at a certain rent, under a contract to build a certain number of houses, which are to be demised to him or his nominees at apportioned parts of the entire rent, the proposed scheme would prove most perplexing. The preliminary building contract in these cases is not referred to in the leases granted pursuant thereto, if it can be avoided, in order that the lessees shall not be affected with notice of its contents. The expediency of this practice is universally felt, and in every well-drawn estate act it is expressly enacted that the preliminary contracts shall not form part of the lessee's title. The reasons for this are well understood by practical conveyancers. These preliminary contracts are in very many cases varied before they are carried into effect; in some cases the rent is increased in consideration of advances of money, or supplies of materials, made to the builder by the landlord; in many cases leases are granted to the builder or his nominees at rents varying from the original terms, in consideration of a premium, or under other special arrangements; in all which cases (under the existing law) a stamp on the lease is requisite, according to the circumstances, the obvious rule of convenience being that each deed should be a perfect document in itself, irrespective of any other document or dealing of the parties thereto; in many cases there is no such agreement as can conveniently be stamped, although the circumstances may be such as to constitute, in equity, a contract for a lease. I may instance the mode in which leases are frequently agreed to be granted in some of the great estates in the neighbourhood of London, where persons attend a board held at the estate office, and make proposals for leases, which are entered on the minutes of the board, and which are afterwards acted on. This is done to a very great extent. To one accustomed to the practical work-

ing of matters of this kind the proposed scheme is one replete with difficulty.

"Fourthly, the trouble attending the practice of stamping deeds with denoting stamps is well worthy of attention. Under an act passed a few years ago it was imperative to stamp counterpart leases with a denoting stamp, in order to insure (as was supposed) the due stamping of the leases. The inconvenience was so great that it was found necessary to repeal the act in the following year. In cases of building contracts, where many houses are built, and where, consequently, many leases are granted, and on which contracts, as they run over a considerable time, there will be, almost to a certainty, numerous indorsements of the various intervening arrangements between the landlord and the builder, it would be impossible for the officers at the Stamp Office, within any reasonable time, to say whether or not the agreement bore its proper stamp; besides which, it is very inconvenient and hazardous to send original documents of great value time after time to the Stamp Office. In some cases which have come before me professionally, if the proposed rule had been in existence, it would have been necessary to have sent the same document to Somerset House more than fifty times in a year.

"Fifthly, suppose that a lease is about to be granted to the nominee of the builder, (party to the original contract), in consideration of a premium paid to him by the intended lessee, the lease is executed by all parties, and the money about to be paid; but the business cannot be completed, because, under the new regulation, the lease and the preliminary agreement entered into by the builder with the ground landlord, all '*duly executed*,' must be produced to the proper officer at Somerset House, to enable him to certify that the lease may be stamped with the proper denoting stamp. Therefore the agent of the lessee and the agent of the builder must meet at Somerset House with the requisite documents in order that the lease may be stamped. But suppose (and this is a very common case) that the builder has deposited his original building contract with some third person as a security for money or building materials, it is obvious that the presence of the agent of the depositor at Somerset House will also be requisite; or suppose (as is also a very common occurrence) that the intended lessee is obliged to borrow a portion of the money about to be paid to the builder, and that a mortgage is to be executed concurrently with the granting the lease; or suppose that the intended lessee does not wish to execute the counterpart until he is satisfied that the lease is all correct, (or, in effect, that the original agreement is all correct), the landlord's solicitor of course will not part with the lease until he has had the counterpart delivered over; the mortgagee's solicitor will not part with his money until the lease can be handed to him; the builder's solicitor will not agree to either party having the lease until his client has his money. What is to be done in such a case, seeing that the matter must stand in abeyance until the Stamp Office authorities are satisfied that the original agreement was duly stamped?"

## COURT OF CRIMINAL APPEAL.

(Concluded from p. 89).

The question of the expenses created by new trials in criminal cases involves the very essence of this measure, because it is only a mockery to give the right of appeal to a prisoner, and at the same time to insist upon his paying the costs. The honourable and learned gentleman must be aware that a motion for a writ of certiorari, to be laid before one of the Courts in Westminster Hall, is a remedy which, to the vast majority of persons convicted at quarter sessions and assizes, is perfectly nugatory and inaccessible.

It would only have effect in political cases, or in cases where public sympathy was strongly moved, and a subscription made to enable the prisoner to defray the cost of a new trial. Debarred from availing themselves of this remedy by its costliness, prisoners, no doubt, would be glad to have recourse to the dark and secret proceedings of the Home Office; and my opinion is, that the present administration of the law would continue with scarcely any alteration. The truth is, that if the House goes the length of conferring a right of appeal on every prisoner who is convicted at assizes or quarter sessions, they can scarcely hesitate before long to grant the principle that the expenses of the appeals should be defrayed from some public fund. That was the opinion given by Mr. Greaves in his evidence before the Lords' committee, for he did not shrink from advising that appeals should be conducted at the public expense, which he thought would be moderate. There is a right of appeal allowed at present in a large class of criminal cases. In summary cases tried before the magistrates at petty sessions there is an appeal to quarter sessions. In these cases, however, the appeal must be made at the cost of the prisoner himself; and I may mention that the recent course of legislation has been, not to give appeals even in summary cases—the Aggravated Assaults Act, for instance, under which more than 2000 persons were convicted in the year 1858, and about 1500 sentenced to imprisonment, generally with hard labour, and no appeal whatever is allowed. In cases, however, where the prisoner possesses the right of appeal, it is remarkable how seldom it is made use of. In the year 1858 no less than 18,630 individuals were convicted in England and Wales under the Vagrant Act, and yet, of these, ten only appealed. In the same year 7379 persons were convicted of offences against the Game Laws, of whom only fourteen appealed; and out of 11,211 convictions for malicious trespass and damage of property only two appeals are recorded, of which one was rewarded with success. . . . In civil cases the plaintiff and the defendant have an equal right of moving for a new trial; but in the bill before us an unilateral right of appeal is given to the defendant, but withheld from the plaintiff. But if there is anything in the argument for assimilation, both parties should be endowed with the privilege of appeal. I am far, however, from recommending that the Crown should have any such right. I believe it would be highly disadvantageous; and I have no desire to see any innovation made in the ancient right of our law, that a plea of *autrefois acquit* is to be held sacred, and that no person should be put in jeopardy twice for the same offence. . . . Supposing there be a unilateral appeal, I will ask the House to consider what would be the consequences. Upon that question I am able to give the opinion of some experienced judges, which I think will have some weight with the House.

Lord Denman said—"I think there are grave objections to anything which will give countenance to the opinion that wrong convictions are of frequent occurrence, and that a new court ought to be erected, or the present courts empowered to correct them by motions for a second trial. One consequence of such power might be, a degree of laxity of juries in considering their verdict, and less reluctance to convict on doubtful evidence, because the new trial might correct their mistake. And, after all, the second trial could not guarantee the security of the truth; the second jury is not more infallible than the first."

Lord Brougham said—"Most undoubtedly, if it were thought that you might set an error right by moving for a new trial, there would be a good deal less of that sort of awful feeling of responsibility under which both judge, prosecutor's and prisoner's counsel, and jury act; whereas at present they feel that what they are doing is remediless if any error is committed. I believe you would have very frequent errors committed. I am quite sure upon jurors it would have an effect; and this is a question about jurors rather than about judges."

The present system of our criminal law is one of great tenderness to the prisoner. It is always understood that the prosecutor's counsel abstains from any strong remarks in his speech; the judge prevents any unfair advantage being taken of the prisoner, and if there is a doubt it is given in the prisoner's favour. I will not say that there is an abstinence from that system of hunting down a prisoner of which we have sometimes met with instances in foreign courts, but, at all events, there is great forbearance shown in the manner in which the

case is pressed against the prisoner. It is not accidental, but it is owing to the feeling of all persons concerned that the verdict on the facts is absolutely irreversible. As regards questions of law, as the hon. member has stated, there are full means of appeal at present. In order that the House may see how favourable is the position of the English prisoner compared with that of a prisoner under some of the most civilised systems of law on the continent, I will read a statement which draws a contrast between English and French jurisprudence. I do not do this with a view of making any invidious comparison between the two systems. I assume that there are sufficient grounds for the rules of criminal law which are followed under the highly civilised system of jurisprudence which exists in France; but I merely wish to draw a contrast for the purpose of shewing what is the position of the English prisoner compared with that of prisoners under other systems, and that it is possible materially to alter that position to his disadvantage.

1. "In France all prosecutions are instituted and carried on by the public prosecutor. In England they are almost always left to private individuals, generally persons of limited means.

2. "In France an accused person is put upon his trial by a report (called a 'mise en accusation') of magistrates or judges, (Tribunal d'Instructions). In England there must be the verdict of a grand jury or a coroner's jury.

3. "In France an accused person is most rigidly questioned, both before and at his trial, not only as to the circumstances of the particular case, but as to other charges which may have been made against him, and as to all the events of his life. A history of him is given in the acte d'accusation, and his character, habits, and disposition, as well as those of his friends and relations, are minutely described, and he is examined as to all these matters by the president in the presence of the jury. As the trial proceeds he is called upon to explain the conduct imputed to him, and to admit or deny the particular facts alleged by the witnesses. In England no questions can be put to the accused either before the magistrate or at his trial, but he is at full liberty to make any statements which he thinks likely to be in his favour. The investigation is confined to the single offence with which he is charged, and previous charges, or even convictions, cannot be brought forward against him until the jury has decided that he is guilty of that offence. His previous bad character cannot be given in evidence to prove his guilt, but he is allowed to bring it forward, if good, to prove his innocence.

4. "In France the accused may be found guilty by a bare majority of the jury. In England the whole number must concur; if one only refuses to join in such a verdict, it cannot be pronounced."

That is a perfectly accurate description; and it may be added, that there is a rule in English law, which is never departed from, that a penal statute must be construed strictly. If there is any doubt as to the verbal construction, that doubt always avails in favour of the prisoner. What would be the position of the prisoner if the rules of law which the hon. gentleman seeks to establish were substituted for the present law? The counsel for the prosecution would be able to say with truth, "Gentlemen of the jury, if your verdict against the prisoner should be wrong, he has an appeal, and it can be set aside; but if you acquit him, your verdict is irreversible; therefore pray incline to the side of severity, and not to that of mercy. If you are wrong, there is an appeal for the prisoner, at present at his own expense, though we hope soon it will be at the public expense; but if he is acquitted, the Crown and the prosecutor are precluded by your verdict, and the decision is unchangeable." The whole feeling of the Court, which every one familiar with the proceedings of a criminal court knows is tender and merciful towards the prisoner, would be reversed, and there would be found, not only a sentiment, but a rational ground, for giving the advantage to the prosecutor against the prisoner.

Influenced by these considerations, Mr. McMahon withdrew the bill, which, with the view of establishing a Court of Appeal, he had introduced into Parliament, and it is most probable that future efforts in this direction will rather seek to improve the mode in which the royal prerogative of mercy is exercised, than to promote uniformity in the civil and the criminal law.

We may here properly call attention to the suggestions of the late Mr. Baron Alderson for the revision of sentences in certain cases. His observations will be found published in his *Memoirs*, (p. 79), and are to the following effect:—

"I would beg to suggest a larger and preliminary plan for the improvement of the present method of final decision on judicial sentences. This very difficult duty belongs at present peculiarly to the Home Office. I have long thought that this should not be left to the Home Secretary alone, but that, in order to give greater authority, and to insure steadiness of practice, it should be vested in a board of six eminent persons, of whom the Secretary for the Home Department should be one. To this board all cases of mitigation of punishment, both from England, Scotland, and Ireland, might be referred. And I would add, that no execution should ever take place till after the case had been laid before the board by a report from the presiding judge, who, in England, should also be required to attend with his report. This, you will perceive, is the old system, somewhat altered, of the Recorder's report, extended from Middlesex to the whole United Kingdom. This, I think, would be an advantageous step towards a proper reform of our criminal jurisprudence, because such a body of eminent persons, having so many cases laid before them, would very soon establish general rules as to punishments, which it would be easy for the judges to follow, and which (if on experiment found to answer) might be embodied afterwards in a legislative enactment—legislation thus following, as it ought to do, judicious experiment. Besides, such a body of men would not be likely to be affected by any change of Ministry. The Home Secretary would, it is true, leave them; but the others (not being members of the actual Ministry) would probably remain in office, and so the same definite course of action would be still persevered in. At present a change of Government makes a considerable difference in a doubtful case, in the probability whether a criminal is to be executed or not.

"Nor would parliamentary interest, nor the suggested influence in Ireland of the priesthood, have any weight with such a body. Indeed, I think the removal of these questions from the provincial atmosphere of Ireland would be a peculiar benefit derivable from this plan. The body, I should suggest, would consist of the Lord Chancellor, the Lord Chief Justice, the Home Secretary, the Secretary for Ireland, and two other Privy Counsellors to be named by the Crown.

"To such a body also all proposed legislative measures relating to the criminal law might be conveniently referred, as to a committee, to advise the Crown thereon.

"I am not aware that this requires any act of Parliament; it may be done by the proper authority of the Crown itself. It would only be necessary in capital cases for the judges to direct specially the executions to take place on some one given day—say the last day of Michaelmas Term, after the Summer, and the last day of Trinity Term, after the Spring Circuit. The board might then meet to consider these cases on some day before Michaelmas, and on some day before Trinity Term.

"One incidental good effect from all executions taking place on a given day might be produced by directing, that throughout England, Scotland, and Ireland the clergy of the established churches should read over to the respective congregations the names of the criminals on the Sunday prior to the day of execution, and that a solemn prayer should be prepared for that occasion. This should be a general notification to all, and would make the most of the sad example."

## PUBLIC EXAMINATION OF STUDENTS.

## TRINITY TERM, 1880.

THE Council of Legal Education have approved of the following rules for the public examination of the students.

The attention of the students is requested to the following rules of the Inns of Court:—

"As an inducement to students to propose themselves for examination, studentships shall be founded of fifty guineas per annum each, to continue for a period of three years, and one such studentship shall be conferred on the most distinguished student at each public examination; and further, the examiners shall select and certify the names of three other students who shall have passed the next best examinations, and the Inns of Court to which such students belong may, if desired, dispense with any terms, not exceeding two, that may remain to be kept by such students previously to their being called to the Bar. Provided that the examiners shall not be obliged to confer or grant any studentship or certificate unless they shall be of opinion that the examination of the students they select has been such as entitles them thereto."

"At every call to the Bar those students who have passed a public examination, and either obtained a studentship or a certificate of honour, shall take rank in seniority over all other students who shall be called on the same day."

"No students shall be eligible to be called to the Bar who shall not either have attended during one whole year the lectures of two of the Readers, or have satisfactorily passed a public examination."

**RULES FOR THE PUBLIC EXAMINATION OF CANDIDATES FOR HONOURS, OR CERTIFICATES ENTITLING STUDENTS TO BE CALLED TO THE BAR.**

An examination will be held in next Trinity Term, to which a student of any of the Inns of Court, who is desirous of becoming a candidate for a studentship or honours, or of obtaining a certificate of fitness for being called to the Bar, will be admissible.

Each student proposing to submit himself for examination will be required to enter his name at the treasurer's office of the Inn of Court to which he belongs on or before Friday, the 11th day of May next; and he will further be required to state in writing whether his object in offering himself for examination is to compete for a studentship or other honourable distinction, or whether he is merely desirous of obtaining a certificate preliminary to a call to the Bar.

The examination will commence on Friday, the 18th day of May next, and will be continued on the Saturday and Monday following.

It will take place in the Benchers' Reading-room of Lincoln's-inn; and the doors will be closed ten minutes after the time appointed for the commencement of the examination.

The examination by printed questions will be conducted in the following order:—

Friday morning, the 18th May, at half-past nine, on Constitutional Law and Legal History; in the afternoon, at half-past one, on Equity.

Saturday morning, the 19th May, at half-past nine, on Common Law; in the afternoon, at half-past one, on the Law of Real Property, &c.

Monday morning, the 21st May, at half-past nine, on Jurisprudence and the Civil Law; in the afternoon, at half-past one, a paper will be given to the students including questions bearing upon all the foregoing subjects of examination.

The oral examination will be conducted in the same order, during the same hours, and on the same subjects

as those already marked out for the examination by printed questions, except that on Monday afternoon there will be no oral examination.

The oral examination of each student will be conducted apart from the other students; and the character of that examination will vary, according as the student is a candidate for honours or a studentship, or desires simply to obtain a certificate.

The oral examination and printed questions will be founded on the books below mentioned, regard being had, however, to the particular object with a view to which the student presents himself for examination.

In determining the question, whether a student has passed the examination in such a manner as to entitle him to be called to the Bar, the examiners will principally have regard to the general knowledge of law and jurisprudence which he has displayed.

A student may present himself at any number of examinations, until he shall have obtained a certificate.

Any student who shall obtain a certificate may present himself a second time for examination as a candidate for the studentship, but only at one of the three examinations immediately succeeding that at which he shall have obtained such certificate; provided, that if any student so presenting himself shall not succeed in obtaining the studentship, his name shall not appear in the list.

Students who have kept more than eleven terms shall not be admitted to an examination for the studentship.

THE READER ON CONSTITUTIONAL LAW and LEGAL HISTORY will expect the candidates for honours to be well acquainted with the origin and progress of our Laws and Constitution, as explained in chap. 8 of Hallam's History of the Middle Ages.

He will expect them to be well acquainted with the History of the Prerogative, the History of the Law of Libel, of the Doctrine of General Warrants, of the Law of Treason, with the chapters in Hallam's Constitutional History, from the 1st to the 16th inclusive.

All candidates will be expected to know the leading events in English History from the Conquest to the Accession of George III, and to possess an accurate knowledge of the Reigns of the Stuart Kings, of Magna Charta, of the Petition of Right, the Bill of Rights, and the Act of Settlement.

THE READER ON EQUITY proposes to examine in the following books:—

1. Haynes's Outlines of Equity; Smith's Manual of Equity Jurisprudence; Hunter's Elementary View of the Proceedings in a Suit in Equity, part 1.

2. The Cases and Notes contained in the first volume of White & Tudor's Leading Cases, and the following Cases in the second volume:—*Warmstrey v. Lady Tanfeld*, *Rowe v. Dawson*, *Ryall v. Rowles*, *Thornbrough v. Baker*, and *Peachey v. The Duke of Somerset*, with the Notes on those Cases; Mitford on the Pleadings in the Court of Chancery—Introduction; c. 1, ss. 1, 2; c. 1, s. 3, (the first six pages); c. 2, s. 1; c. 2, s. 2, part 1, (the first three pages); c. 2, s. 2, part 2, (the first two pages); c. 2, s. 2, part 3; c. 3.

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1. Joshua Williams on the Law of Real Property, 5th ed.

2. On Joint Tenancy and Tenancy in Common. *Morley v. Bird*, (3 Ves. 629), and the Notes to that Case in Tudor's Leading Cases in Conveyancing, 712.



3. Powers. Josiah W. Smith on Real and Personal Property, part 2, tit. 9, c. 3, and part 3, tit. 12, c. 3, s. 7, pp. 316-332, 685-693, 2nd ed.

4. Hayes on the Common Law, Uses and Trusts.

5. The Law of Copyholds—The Incidents of the Copyhold Tenure—The Rights of Lords and Tenants of Manors. Shelford's Law of Copyholds, cc. 2, 4.

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2. The book on Jus Hereditarium in Mackeldey's Systema Juris Romani Hodie Usitati, (p. 580), so far as it relates to Testaments and Testamentary Succession.

3. The last two titles of the Digest, "De Significatione Verborum" and "De Regulis Juris."

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3. Stephen's Commentaries, 4th ed., book 5, "Of Civil Injuries," (omitting cc. 2, 5, 6, 11, and 12).

4. Archbold's Criminal Pleading, by Welsby, book 2, "Offences against Individuals," part 1, and part 2, m. 1-4.

Candidates for the studentship or honours will be examined in the above-mentioned books and subjects, and also as to—

5. The following cases from Coke's Reports, (the references being to the part and folio):—*Ferrius's case*, iii, 77; *Twyne's case*, iii, 80; *Semayne's case*, v, 91; *Pinnel's case*, v, 117; *Higgins's case*, vi, 44, (so far as it illustrates the doctrine of Merger); *Blake's case*, vi, 43; and *Mackalley's case*, ix, 61.

6. Smith's Comp. Mercantile Law, last ed., book 1 (omitting c. 3) and book 3, (omitting cc. 3-7, and 9).

7. Taylor on Evidence, 3rd ed., part 2, "Rules governing the Production of Testimony," cc. 1-5, 7, 11-13, 15, and 19.

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JAMES EVANS, Bristol, cattle dealer, March 27 and April 24 at 11, Bristol: Off. Ass. Acraman; Sols. Smith & Co., Bristol.—Pet. f. March 2.

MARK BOWDEN, Bristol, looking-glass manufacturer, (trading under the firm of Mark Bowden & Co.), March 27 and April 24 at 11, Bristol: Off. Ass. Miller; Sols. Smith & Co., Bristol.—Pet. f. March 15.

JOHN HARRIS, Littledeans-hill, Lea Bally, Gloucestershire, innkeeper, March 27 and April 24 at 11, Bristol: Off. Ass. Acraman; Sols. Carter & Gould, Newnham; Abbot & Co., Bristol.—Pet. f. March 14.

WILLIAM SANDON SPICER, Kingston-upon-Hull, tobacconist, April 4 and May 2 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sols. Stamp & Jackson, Kingston-upon-Hull.—Pet. d. March 2.

THOMAS LILLEY, North Shields, Northumberland, merchant tailor, March 23 and April 24 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Welford, Newcastle-upon-Tyne; Nichol & Clarke, 9, Cook's-court, Lincoln's-inn.—Pet. f. March 13.

## MEETINGS.

Joseph Tilley, St. Andrew's-road, Horsemonger-lane-Southwark, Surrey, licensed victualler, March 28 at 1, London, aud. ac.—John Oakley and Benj. Oakley, Southampton, builders, March 28 at half-past 11, London, aud. ac.—Thos. Roberts, Blackman-street, Southwark, Surrey, linendraper, March 29 at half-past 11, London, aud. ac.—John Marks, Bell-street, Paddington, and Long-acre, Middlesex, and North Melbourne, Australia, coachmaker, March 29 at 11, London, aud. ac.—Robert Feast, Finsbury-pavement and Little Moorfields, City, Italian warehousman, March 29 at 11, London, aud. ac.—W. Shrimpton, Compton and Bishopstoke, near Winchester, Hampshire, dealer and chapman, March 29 at 11, London, aud. ac.—Wm. H. Elliott, Cheap-side, City, clothier, March 26 at 12, London, aud. ac.—John Bushell, Wolverhampton, Staffordshire, licensed victualler, April 2 at 11, Birmingham, aud. ac.—Thomas Gibbons, Edgley, Stockport, Cheshire, linendraper, March 28 at 12, Manchester, aud. ac.

## CERTIFICATES.

To be granted, unless an Appeal be duly entered.

Wm. Lovett, Union-street, Southwark, and Blackfriars-road, Surrey, patent wedding manufacturer.—Edw. Triggs and Wm. Triggs, Southampton, upholsterers.

## PETITIONS, REFUSED.

William Turner, Gravesend, Kent, butcher.—John Hancock, Bristol, licensed victualler.

## PARTNERSHIP DISSOLVED.

James Septimus Robinson and Edmund Jonathan Hornblower Watkins Clarke, Sunderland, Durham, attorneys and solicitors.

## SCOTCH SEQUESTRATIONS.

John Archibald Campbell, Edinburgh, saddler.—Alex. Dickie & Co., Glasgow, boot makers.—William Holdsworth, Glasgow, joiner.—James Arrol, jun., Johnstone, Renfrewshire, ironmonger.

## TUESDAY, March 20.

## BANKRUPTS.

JAMES HENRY REDSTONE, Cowes, Isle of Wight, Southampton, fishmonger, March 31 at 12, and April 27 at 1, London: Off. Ass. Whitmore; Sols. Coxwell & Bassett, Southampton; Westall, 3, South-square, Gray's-inn, London.—Pet. f. March 8.

FREDERICK WILLIS MILBURN, Westbourne-park-villas, Middlesex, boarding-house keeper, March 30 at half-past 11, and April 27 at 11, London: Off. Ass. Canan; Sol. Nickoll, 16, Bucklersbury.—Pet. f. March 11.

GEORGE RIDSDALE, Gower-place, Euston-square, Middlesex, surgeon, March 30 and April 28 at 1, London: Off. Ass. Graham; Sol. Lewis, 2, Raymond-buildings, Gray's-inn, London.—Pet. f. March 10.

JOHN BISHOP JOHNSON, Aberdeen-mews, Highbury, Islington, Middlesex, livery-stable keeper, April 2 at half-past 1, and April 30 at 1, London: Off. Ass. Pennell; Sol. Henry de Medina, 28, Broad-street-buildings, London.—Pet. f. March 8.

KEMP GOLDSMITH, Sutton, near Ely, Cambridgeshire, miller, April 3 at half-past 2, and May 1 at 12, London: Off. Ass. Edwards; Sol. Voules, 16, Gresham-street, London.—Pet. f. March 3.

MIER BENRIMO and JAMES PICCIOTTO, New Broad-street, London, merchants, April 3 at 2, and May 1 at 12, London: Off. Ass. Edwards; Sols. George & Downing, 5, Sise-lane, London.—Pet. f. March 9.

WILLIAM MARRIS, Nottingham, draper, April 3 and May 1 at half-past 11, Nottingham: Off. Ass. Harris; Sols. Campbell & Co., Nottingham.—Pet. d. March 19.

HENRY SMART, Gloucester, printer, April 2 and 30 at 11, Bristol: Off. Ass. Acraman; Sols. Bevan, Bristol; Barrup & Son, Gloucester.—Pet. f. March 15.

THOMAS NICHOLSON the younger and ISAIAH BIRT NICHOLSON, Gloucester, coal merchants, April 2 and 30 at 11, Bristol: Off. Ass. Acraman; Sols. Carter & Gould, Newnham; Abbot & Co., Bristol.—Pet. f. March 19.

JAMES MELLING and ROBERT CARR, Attercliffe-cum-Darnall, Yorkshire, glass manufacturers, March 31 and May 5 at 10, Sheffield: Off. Ass. Brewin; Sols. Webster, and W. & B. Wake, Sheffield.—Pet. f. March 17.

## MEETINGS.

Charles Pavia, Lime-street, City, merchant, March 30 at 12, London, last ex.—T. Powning, Truro, Cornwall, grocer, April 18 at 12, Exeter, last ex.—J. Richmond, Norton, Derbyshire, corn factor, March 31 at 10, Sheffield, last ex.—John Hignell, Kirby-le-Soken, Essex, grocer, March 30 at 1, London, aud. ac.—George Gyane, Wardour-street, Soho, Middlesex, cabinet maker, April 5 at 1, London, aud. ac.; April 12 at 11, div.—Nathaniel Morrish, Shaftesbury, Dorsetshire, farmer, April 2 at half-past 11, London, aud. ac.—Christopher Storry, Aldershot, Hampshire, and Farham, Surrey, fishmonger, April 7 at 12, London, aud. ac.—Chas. Willmer, Liverpool, newspaper proprietor, April 2 at 11, Liverpool, aud. ac.—Jas. L. Cross, Liverpool, insurance broker, April 2 at 11, Liverpool, aud. ac.—Frederick Saldorf, Plymouth, Devonshire, corn factor, April 2 at half-past 12, Plymouth, aud. ac.—Job M. Smith, Lincoln, draper, April 25 at 12, Kingston-upon-Hull, aud. ac. and div.—Beaumont Marshall, High Holborn, Middlesex, tallow melter, April 19

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THE JURIST.

LONDON, MARCH 24, 1860.

THE bill introduced into Parliament by the Attorney-General is a great advance in legislation upon the cognate subjects of bankruptcy and insolvency. Reflecting the energy and courage of its framer, it grapples boldly with the difficulties which have been found by experience to press most heavily upon commercial interests; it removes anomalies, which did not exist merely in theory, but were the means of working injustice and oppression; it simplifies procedure, and tends to produce a more efficient system as between debtor and creditor, at far less cost and vexation and delay than have hitherto been incurred. The leading characteristics of this important measure are the breaking down of the distinction between traders and non-traders, when once levelled by insolvency; the abolition of the five London commissioners in their official character, and the vesting of their judicial functions in one judge, to be assisted, in cases where the assets do not exceed 300*l.*, by the Insolvent Court in Portugal-street\*. Henceforth, as it is proposed, ministerial acts are to be performed by the registrars; the country commissioners are to be gradually absorbed in the county court judges; the messengers are to be discontinued; acts of bankruptcy are reduced in number, and are greatly simplified;

\* We doubt whether this Court ought not to be abolished; at all events, we trust that it will be removed to a better and more convenient home.

the creditors will have a greater control over the proceedings, in which they have the greatest interest, the official assignee acting simply for their aid and protection; private arrangements are facilitated; the classification of certificates is put an end to, criminal acts being remitted to the regular criminal tribunals; while imprisonment for mere debt is practically abolished.

Our present code of bankruptcy and insolvency was described by the Attorney-General as the very worst in any country in Europe, as frustrating its main objects, and consuming in expenses one-third of the property administered under its provisions. This description tells but badly for legislation, which has so often revised and reconsidered the subject, the last consolidation bill dating no further back than 1849; and yet Sir Richard Bethell tells us, "In principle, nothing ought to be more simple than a law of bankruptcy. Bankruptcy is nothing in the world more than taking the whole of the debtor's property by one universal execution, or by one universal surrender, for the benefit of his creditors; and all that would be required would be a tribunal simply for the purpose of ascertaining the extent of the rights of those who are interested in the distribution, and some simple machinery for realising the property, and dividing it among the parties entitled. In theory, then, one would imagine that it was most easy to construct a tribunal, and establish an institution, that should devote itself to the task of realising the property of the insolvent, and, with the advantage of an established body, that this would be done at a very small and reasonable cost." He, however, informs the House that "such is the

enormous amount of official persons who have been introduced into the establishment of bankruptcy, that at the present time the expenses of the administration of an estate in the Court of Bankruptcy amount to very nearly, if not quite, 33 $\frac{1}{3}$  per cent. upon the property realised. It is hardly possible to bring home to the mind a correct idea of the enormous amount of error or impurity of management involved in that admitted result. For every 100 $\frac{1}{2}$  of a debtor's estate realised in bankruptcy, 33 $\frac{1}{3}$  is deducted for the costs of collection and distribution. Now, in ordinary life, 5 $\frac{1}{2}$  per cent. for the collection of property is considered a very high rate of charge; but the unfortunate creditor whose debt amounts to 600 $\frac{1}{2}$ , even if that be realised, has to submit to a deduction of 200 $\frac{1}{2}$  to satisfy the claims and provide for the maintenance of the parties appointed by the State to conduct this business, taken out of his own hands."

The Attorney-General would willingly propose the total abolition of imprisonment for debt, but at present contents himself with attacking the causes which lead to it. "The principle," he says, "unquestionably ought to be, that if the insolvent is willing to give up the whole of his property, and submit himself to examination, and is found not to have been guilty of any fraud, such as obtaining goods on credit by any deceitful proceeding, he should be as much entitled to be discharged without imprisonment as is the trader. What you have done, however, is, that you have sent the insolvent to prison, and subjected him to the degradation of incarceration, and all this merely that you may wring from him a full discovery and surrender of his property for distribution among his creditors. Imprisonment as a punishment for incurring debt or becoming insolvent, without fraud, is inconsistent with the dictates of humanity. Treading in the path of all the distinguished men in the other House who have adorned the jurisprudence of this country, we therefore propose entirely to abolish the distinction between bankruptcy and insolvency, and to make one law applicable to both. The result of this will be that the creditors of the insolvent will have no motive or reason for sending him to prison; they will without difficulty be able to obtain a discovery of his estate and the possession of his property, together with all the advantages they now enjoy with respect to the trader, without the necessity of incarcerating him. On the other hand, I hope means will be found under this bill by which not only will our gaols be relieved from their insolvent inmates, but an end will be put to a spectacle frequently witnessed, to the general reproach of this country—namely, that of persons put into prison for debt remaining there, and defying their creditors, by persistently refusing to make a disclosure of their estate."

Any person is to be at liberty to present a petition for adjudication of bankruptcy against himself; and this he may do in forma pauperis. On the other hand, he may be made a bankrupt after he has been in prison fourteen days upon committal for debt.

Acts of bankruptcy are thus dealt with:—"The non-trader cannot be subjected to the same law which now affects the trader, because the acts of bankruptcy which may be committed by a trader are many of them of a very technical and artificial nature, and a gentleman or

a person in the highest station, and perfectly solvent, might by accident be involved in the commission of an act of bankruptcy, without being at all aware of the consequences of what he had inadvertently done. I therefore propose that those technical acts of bankruptcy, such as denying yourself to a creditor at your home, and others of the same kind, shall not be included in the law of bankruptcy, but that there shall be substituted for the list now in force a few plain and simple tests of insolvency. If the debtor absconds, and leaves the realm, there can be no doubt as to what ought to be the consequences. If, being abroad, he remains abroad to defeat his creditors, there can be no dispute as to the manner in which he ought to be dealt with. If he make any fraudulent disposal of his property, or any part of his property, or any fraudulent preference, being insolvent, there can be little doubt that the same rule ought to apply to both trader and non-trader. If he causes himself to be committed to prison, or if he permits part of his property to be seized and sold under an execution, that is a tolerably clear proof of a state of insolvency. Further than this, if a judgment is recovered against any person, though he be not a trader, this bill provides a mode of summoning the judgment debtor before the Court, when, if he is unable to shew that he can, within a reasonable time, satisfy or give security for the satisfaction of the judgment, he is to be adjudged a bankrupt. These are the principal acts of bankruptcy which will remain in operation under this bill. They are, I apprehend, unmistakable criteria of general insolvency, and there is, therefore, no reason why they should not apply alike to the cases of traders and non-traders."

The independent power of creditors is much and beneficially increased. The Attorney-General points out the great inconvenience of being unable to escape from the Court of Bankruptcy, after you have once entered it, until the whole of the estate has been administered. "A creditor," he says, "may wish to invoke the aid of the bankruptcy law for a particular purpose, but he is unable to obtain that aid without winding up the whole estate, when once he is within the walls of the court, and getting it administered—that is to say, without sacrificing one entire third of the whole of the property. That is a great injury. Therefore I am anxious to provide, that if creditors are compelled to resort to the Court of Bankruptcy for any particular purpose, they may at any time they please, provided a certain majority of the creditors consent thereto, suspend the proceedings, take the whole estate out of the Court of Bankruptcy, and commit it to any mode of private administration which they may consider more economical. There is another advantage which will attend the plan established by this bill. An honest debtor might desire to make a disclosure of his affairs to his creditors, with the view of making some arrangement, and preventing the necessity of bankruptcy. But the very disclosure puts him in the power of some particular creditor, or some individual who wishes to pursue, perhaps, a private end of his own, and who opposes an obstacle in the way of completing an effective arrangement, by prosecuting an adjudication of bankruptcy. I hope to provide a mode of relieving persons in this situation from the embarrassment I

have referred to. According to the plan embodied in the bill, immediately on adjudication of bankruptcy a meeting of creditors will be appointed, and at that meeting, if a majority of the creditors present should deem it advisable not to go on with the bankruptcy, or to proceed with it only in a limited extent, they will have power of coming to an arrangement for the purpose, notice of their resolution being given to all the creditors; and then, if a majority of three-fourths in value should determine to suspend the prosecution of the adjudication of bankruptcy, they may suspend it at once, and no further steps would be taken under it. Thus the honest debtor, without committing an act of bankruptcy, may petition for an adjudication, and make to the creditors a proposal of compromise or arrangement. If the creditors confide in him, and find his proposal convenient, suitable, and just, then three-fourths in point of value, concurring together, will have the power of making a conclusive and binding arrangement, without the possibility of being interfered with by an adverse individual. This power is given to the creditors to be exercised at any time, and is not limited to the first instance. In this way I propose to make the law of bankruptcy as part of the law of debtor and creditor, and to avoid the necessity for the great cost, inconvenience, and suffering which at present are the only terms on which parties can get the benefit they desire. We are all aware that a great stigma attaches to the name of bankrupt. Accordingly a most natural wish exists on the part of the honest man to avoid the reproach of bankruptcy. As I have already said, there is great difficulty in gratifying such a wish, because the moment he exposes his affairs he lays himself open to adverse proceedings. Now, upon examining the statistics of this subject, the House will be surprised to find that the contrast between the number of adjudications in bankruptcy and the number of trust deeds and deeds of arrangement is immense. In 1858, and for a series of years antecedent thereto, the adjudications, as compared with trust deeds and deeds of arrangement, were not more than one in seven. In 1868 the number of adjudications was 660, while the number of trust deeds and deeds of composition and arrangement are computed to have been more than 8000. But why is it that in cases of insolvency creditors are content to put up with the imperfect relief of the trust deed, where they have no supervision by the law, no power of examining the debtor, no stringent authority for compelling the investigation of accounts? The answer is, that partly the expense, partly the immense inconvenience, partly the stringent provisions of the bankrupt law, which are founded upon great inhumanity, as well as great want of policy—all these things together conspire to induce the creditor to prefer the trust deed, imperfect as it is, to proceedings by adjudication in bankruptcy. But will it not be just still to allow the creditor to make his election, while at the same time you give him the whole benefit of the bankrupt law? I have endeavoured to accomplish that object. If a debtor is desirous of meeting his creditors, and of giving up all his property by deed of composition, arrangement, or assignment, he will be enabled to do so, and will have for a certain period of time a secure opportunity afforded him for that purpose—secure, I

mean, against the intervention of a creditor, who may destroy the whole plan by procuring an adverse adjudication in bankruptcy. But I give this privilege to the debtor only upon certain conditions, which are, that the deed of arrangement and composition shall be brought into the Court of Bankruptcy, and registered there; that he shall pay for that registration the sum, and only the sum, which he would have paid for an adjudication in bankruptcy; and that as soon as the deed is registered, the debtor, the trustees, and the creditors shall at once be placed in the same relative position as if the debtor had been adjudicated a bankrupt, and the trustees had been duly appointed his assignees. They shall have all the benefit of the bankrupt law. They may resort to it to the extent to which they may need its interposition; while, as far as the debtor is concerned, there will be no reproach, no obloquy, no public proceedings, save so far as publicity may be requisite to the creditor. The creditors may resort to the Court of Bankruptcy to secure the examination of any person whose evidence they may require. In this way the whole law of bankruptcy will be at once incorporated with the law which regulates the relations of debtor and creditor and trustees; and the administration of the estate will go on, the creditor knowing that he may at any time invoke the interposition of the Court, and derive the same advantage as though there had been an actual adjudication in bankruptcy. The benefit to the creditor and trustees by this arrangement will be exceedingly great, because if a question arises involving matters of legal controversy, power is given to the creditors and parties interested to state a case for the opinion of the judge in bankruptcy, and they will accordingly receive the aid of the Court, and get the matter decided by the judge, thus deriving the same advantage from the tribunal as if they were actually and legitimately within its walls in the position of bankrupt, assignees, and creditor."

The procedure and relative positions of the official assignee and the creditors' assignees are thus sketched:—"An adjudication will be made immediately the petition is presented; but in case of a contested adjudication, a period of not less than three days, and not exceeding seven, will be allowed to elapse; that interval, however, will not interfere with the measures to be taken for the preservation of the property of the estate itself. An official assignee will be assigned to the estate, who will be charged with that duty. . . . The official assignee will have the charge and custody of the estate up to the appointment of the assignees under the fiat. Many burthensome charges will be taken off the estate; it will be in the power of the official assignee to go to the judge in chambers and obtain the necessary authority to keep open the trade, carry on the business in which the bankrupt was engaged, and prevent the necessity of breaking up the establishment; he will keep things in the condition required for the payment of the creditors till they shall have the power to speak for themselves. The bill proceeds on the principle that the estate of the debtor belongs to the creditors. If, at the meeting of the creditors, they determine to go on with the bankruptcy, an assignee will be chosen. . . . I propose, then, that immediately on the selection of the creditors' assignee—supposing the creditors should be determined to choose an assignee from among them—

selves, or apart from their own body—the official assignee shall be bound to render to him a full and particular account of all his receipts and payments, and to hand over the whole of the property of which he has taken possession. I propose, however, immediately after, that the official assignee shall stand in the position of auditor of the accounts of the creditors' assignee, and to continue the obligation on the creditors' assignee of paying all the monies which he may receive into the Bank of England. . . . . What I propose is, that that great invention of printing, which has been so slow in finding its way into the administration of the law, should, in the present case, be introduced to supply the place of that cumbersome and inconvenient parchment which has hitherto been employed; for I will undertake to say that one-fourth of the existing litigation would be avoided if the mode of learning the contents of deeds, and ascertaining their accuracy, and rendering oneself familiar with their contents, were made more easy by the course which I suggest. I propose, therefore, in conformity with that opinion, and with the mode of proceeding adopted by railway and other incorporated companies, that the creditors' assignee shall render quarterly accounts of the whole of his receipts, the payments he has made, and all other circumstances relating to the estate; that that quarterly account shall be audited and examined by the official assignee; that immediate recourse shall be had to the registrar or the judge if any question should happen to be raised thereon; that it shall be vouched by the creditors' assignee; and that the creditors' assignee shall be charged with the duty of seeing that all monies that have come into his hands have been faithfully paid into the Bank as soon as they have been received. I propose, moreover, that printed copies of those accounts, when audited, in the form of a balance-sheet of the bankrupt's estate, shall be sent to every creditor; so that, within three months after the bankruptcy, printed accounts, in the common form of those used by railway companies, will be placed in the hands of each creditor, without calling upon him to travel outside his door, or to employ an attorney to ascertain how the estate is being administered. I ought to have stated, that in order the more expeditiously to effect this object, I have made provision, that when the creditors are ascertained, a printed list of the names of those who have a claim to the amount of 10*l.* shall be sent to each creditor."

It is also proposed to give to a majority of creditors the power, when the assets do not exceed 1000*l.*, to transfer the administration of the estate to the county court. In the case of the death of the bankrupt, the same power of administering his estate in bankruptcy is to be given as if he had remained alive. "The estate of the deceased debtor may thus be administered, in the simplest and most expeditious way, at an amount of cost very little exceeding 5*l.* per cent. on the amount of his debts."

The future-acquired property of all bankrupts is to be protected (in the absence of fraud) against all debts contracted before bankruptcy.

Such are the main provisions of the new bill, which, on its introduction, appeared to meet with the approval of the House of Commons, and which promises to be the most important legal reform of 1860.

## Reviews.

*A Compendium of English and Scotch Law, stating their Differences; with a Dictionary of Parallel Terms and Phrases. By JAMES PATERSON, Esq., M.A., of the Middle Temple, Barrister-at-Law.*  
[Edinburgh: A. & C. Black, 1860.]

As historical parallels bring out in strong relief the characteristics of men, and the merits or demerits of their actions, so do these legal parallels exhibit in a clear light the advantages possessed by one system of jurisprudence as compared with another, and suggest weighty considerations for their amendment and assimilation. To the law reformer, to the legislator, and to the jurist a work of this nature is of peculiar value, affording to them the means of viewing, side by side, the laws of England and of Scotland in their most important processes and results, and of thus tracing the distinctive features of all those great juridical codes which have been raised upon the Roman law, as contrasted with those which rest upon the feudal system. The author says, with truth—"England and Scotland have long been running the race of civilisation under similar circumstances, but it is well known that their laws are nearly as distinct as if each was a foreign country to the other. . . . A common Legislature, and in many respects a common Supreme Court, have latterly, no doubt, confined them very much within the same channel; yet, notwithstanding many approximations, assimilations, and roundings of angularities, the law of one country is still a sealed book to the other. England rather glories in her ignorance, and Scotland confidently rebukes this insular pride by counting over the adaptations from her own code which have now and then been paraded by her neighbour under new names as original reforms. English lawyers do not profess to know anything of the law of Scotland, and seldom, if ever, resort to it, either for principles or for illustrations. It is often otherwise with Scottish counsel. Whenever there is an opening, or the necessities of their argument point the way, one or other of the parties seldom fails to call in aid details from the ample storehouse of English law; yet so ambiguous are found to be the responses from this quarter, that the Scottish Courts generally refuse to follow into the forbidden ground, and end by rebuking such curiosity as at once perplexing and unprofitable.

"As Scotland," he continues, "still resolutely asserts her distinct nationality, and there is no immediate prospect of her renouncing her native laws, and unlearning the language in which they are written, the necessity of some key of intercommunication between the two codes is apparent, and has long been felt. The populations are now so intermixed by the complicated ties of relationship, residence, and commerce, that there are few who do not occasionally suffer inconvenience from finding their legal rights abruptly dislocated or shrouded in mystery by simply passing across the border. This is peculiarly felt by the gradually increasing class of persons who hold property and maintain business relations and establishments in both countries. Legal advisers in such cases are generally as much in the dark as their clients. The marked difference of professional language has led to a settled state of 'imperfect sympathies' between English and Scotch lawyers, and an interpreter is generally required. What is obviously wanted, therefore, is some work which will enable a person, who has by habit become tolerably familiar with his legal bearings in one country, to ascertain with some precision his latitude when occupying an analogous position in the other."

The leading divisions of the work are the following—  
1. Real property, and rights incidental thereto.



2. Personal property.
3. Succession to a deceased person's estate.
4. Personal and domestic relations.
5. Public law.
6. Courts—jurisdiction and procedure.
7. Several points of international law.

A Dictionary of Parallel Terms and Phrases, which also forms the index, concludes the work, and will be found very useful as an interpreter between the Scotch and English lawyer.

The Professions of both countries are indebted to our author—utroque jure peritus—for thus introducing them to each other—an introduction that will enable them to enlarge their views, to correct their prejudices, and to amend faults on both sides.

With a view to promote these objects, we recommend to their careful perusal Mr. Paterson's excellent book.

## REGULATIONS OF THE REGISTRARS OF THE COURT OF CHANCERY,

*Respecting the Transaction of Business in their Office,  
issued on the 15th March, 1860.*

### SETTING DOWN CAUSES, PLEAS, DEMURRERS, AND OTHER MATTERS FOR HEARING.

#### *Generally.*

1. Pleas, demurrers, exceptions for insufficiency or scandal, motions for a decree, original causes, special cases, causes for further consideration, and appeals and rehearings, are to be set down by the registrar's clerk at the order of course seat on the same day the order, petition, Record and Writ Clerk's certificate, request, or other document required for that purpose, is produced to or left with him; and he is to retain any such petition, certificate, or request for filing.

#### *Pleas and Demurrers.*

(Cons. Ord. 21, rule 9; Cons. Ord. 14, rules 14, 15, 17).

2. Pleas and demurrers filed in causes attached to the Rolls Court are to be set down upon production of an order drawn up by the secretary to the Master of the Rolls.

3. Pleas and demurrers filed in causes attached to the courts of the Vice-Chancellors are to be set down upon an order to be drawn up by the registrar on petition of course to the Lord Chancellor, and dated the day the petition is left. The petition (which does not require any fiat from the Lord Chancellor, nor any stamp) must state the day when the plea or demurrer was filed, and whether it be to the whole or part of the bill, and be subscribed by the solicitor in the form following; that is to say—

"A. B., plaintiff's [or, defendant's] solicitor.  
"1st March, 1860."

4. Pleas and demurrers are to be set down within the following times (exclusive of vacations) after the same are filed; that is to say—

Demurrers to whole bill ..... 12 days.  
Demurrers to part of bill, and pleas  
to whole or part of bill ..... 3 weeks.

#### *Exceptions for Insufficiency or Scandal.*

(Cons. Ord. 16, rule 10).

5. Exceptions to answers for insufficiency, or to any pleading or other matter for scandal, are to be set down upon production of the Record and Writ Clerk's certificate of the filing thereof, indorsed by the solicitor of the party filing the same with a request for that purpose, in the form following; that is to say—

"I request that the exceptions referred to in this certificate may be set down for hearing.

"A. B., plaintiff's [or, defendant's] solicitor.  
"1st March, 1860."

#### *Motions for Decree.*

(Cons. Ord. 33, rule 9; Cons. Ord. 37, rule 10).

6. Motions for a decree are to be set down within seven days after the notice is served, upon production of the Record and Writ Clerk's certificate that the cause is in a fit state to enable the plaintiff to move for a decree, indorsed by the plaintiff's solicitor with a memorandum of the date when the notice was served, and the date when it will expire; and, if there be any infant defendant, stating that a guardian ad litem has been appointed; or if there be not, stating that there is not any infant defendant. After the seven days have expired the motion is not to be set down without the consent in writing of the defendant's solicitors. The memorandum may be in the form following; that is to say—

"Notice served — day of —  
expires — day of —."

(i. e. one lunar month after service).

"A guardian ad litem has been appointed to  
the infant defendant A. B."

or,  
"There is not any infant defendant."

"C. D., plaintiff's solicitor.  
"1st March, 1860."

#### *Original Causes.*

(Cons. Ord. 6, rules 2, 3).

7. Causes are to be set down for original hearing upon production of the Record and Writ Clerk's certificate that the cause is in a fit state to be set down for hearing, indorsed by the solicitor of the party setting down the same with a memorandum, stating, if there be any infant defendant, that a guardian ad litem has been appointed; or if there be not, stating that there is not any infant defendant. The memorandum may be in the form following; that is to say—

"A guardian ad litem has been appointed to  
the infant defendant A. B."

or,  
"There is not any infant defendant."

"A. B., plaintiff's solicitor.  
"1st March, 1860."

#### *Special Cases.*

(Act 13 & 14 Vict. c. 35, ss. 12, 13).

8. If all parties are not sui juris, special cases are to be set down upon production of an order for leave to set down the same; or if all parties are sui juris, upon production of the Record and Writ Clerk's certificate, indorsed by the solicitor with a memorandum to that effect, in the form following:—

"All parties are sui juris.

"A. B., plaintiff's solicitor.  
"1st March, 1860."

#### *Causes for further Consideration.*

(Cons. Ord. 21, rule 10).

9. Causes for further consideration are to be set down after the expiration of eight days and within fourteen days from the filing of the chief clerk's certificate, upon production of the written request of the plaintiff or party having the conduct of the cause; and, after the expiration of the fourteen days, upon production of the written request of the solicitor for the plaintiff, or any other party desiring to have the same set down; and in either case upon production of the decree or order adjourning further consideration, or an office copy

thereof, and an office copy of the chief clerk's certificate, or a memorandum of the date when such certificate was filed, indorsed on the request by the Clerk of Reports. The request may be in the form following; that is to say—

"In Chancery.

"A. v. B.

"I request that this cause, the further consideration whereof was adjourned by order of the — day of —, may be set down for further consideration before his Honor the Vice-Chancellor Kindersley.

"C. D.,

"Plaintiff's [or defendant's] solicitor.  
"1st March, 1880."

*Marking Causes and Motions for Decree "Short."*

(Cons. Ord. 21, rule 10).

10. Causes for original hearing or further consideration, and motions for a decree, may be marked "short" on production of the certificate of the plaintiff's counsel that the cause or motion is fit to be so heard, without the consent of the solicitors for any of the defendants; but will not be so marked, in the case of causes for original hearing, for any day before the day when the subpoena to hear judgment is returnable; or in the case of causes for further consideration, until after the expiration of ten days; or in the case of motions for decree, for any day before the day for which the notice of motion is given; unless in either case by consent of all parties.

*Appeal Motions.*

11. Appeal motions are to be set down at least two clear days before the day for which the notice is given, upon production of the order appealed from, or an office copy thereof, and a copy of the notice of motion, which is to be filed.

*Rehearings and Appeals.*

(Cons. Ord. 31, rules 4, 5).

12. Petitions for a rehearing before either of the Vice-Chancellors, or before the Lord Chancellor or Lords Justices, and petitions of appeal, are to be set down upon an order to be drawn up by the registrar, pursuant to the fiat of the Lord Chancellor inscribed on the petition, and upon payment of the usual deposit. Petitions for a rehearing before the Master of the Rolls are to be set down upon an order drawn up by his secretary, and upon payment of the usual deposit. All petitions of appeal or rehearing are to be marked in the cause book as not to be in the paper for hearing before the expiration of six clear days from the day of setting down.

*ADJOURNMENT.*

*Causes standing over.*

13. Upon production to the registrar of a request or consent signed by the solicitors of all parties, at the latest in the forenoon of the day before the day the cause is to be in the paper, it will be marked as standing over to a day to be named. If all parties do not consent, application should be made to the Court for that purpose at the latest in the forenoon of the day before the day the cause is to be in the paper; otherwise, if the cause be placed in the paper and called on, it may be struck out, and in that case it must be again set down at the bottom of the list.

*Petitions standing over.*

14. Where an unopposed petition is directed to stand over, without fixing a day for it to be again put into the paper, the registrar in attendance in court, upon the written request of the solicitor, will direct the same to be restored to the paper for the following petition day.

*DOCUMENTS TO BE LEFT ON BESPEAKING DECREES OR ORDERS.*

*Generally.*

15. Any documents or evidence required to be produced to the Court should be left with the registrar on bespeaking the decree or order.

*Whenever any Fund in Court is to be dealt with.*

16. The Accountant-General's certificate, and, if the funds are restrained by any order, the restraining order, or an office copy thereof.

*Where Payment out of Court is ordered to legal personal Representatives.*

17. The probate or letters of administration, stamped for a sufficient amount.

*Legacy or Succession Duty.*

18. Orders for payment of specified sums to the Receiver-General of Inland Revenue, for legacy and succession duty, will not be drawn up until the calculation has been examined at the legacy and succession duty department, and a certificate obtained of the proper amount payable for duty.

*Reference to the Record.*

(Cons. Ord. 1, rule 48).

19. If the decree or order is made in a cause commenced subsequently to the first day of Michaelmas Term, 1852, the reference to the record is to be either inscribed or stamped upon some document in the cause, or upon the brief. If the decree or order is made in a cause commenced prior to the first day of Michaelmas Term, 1852, a memorandum or certificate is to be indorsed and signed by the solicitor on the brief, in the form following; that is to say—

"I certify that this cause was commenced previously to the first day of Michaelmas Term, 1852."

*Lower Scale of Fees.*

(Cons. Ord. 39, rules 2, 3—Regulation 3—Art. 3).

20. If the fees of court are payable according to the lower scale, (except on orders on petition or summons, other than summons originating proceedings in chambers), a copy of the certificate for paying the lower scale of court fees, duly marked by the Clerk of Records and Writs.

*In all Cases of Non-appearances.*

21. If any party or person served does not appear at the hearing, an affidavit of service on such party or person.

*DECREES.*

22. Counsel's brief, and a print of the bill, with the reference to the record marked thereon, and the correct title of the cause, with the names of the guardians of any infant defendants inserted.

In addition to the printed copy of the bill to be left for the use of the judge previously to the hearing of all causes and motions for a decree, a printed copy of the bill is, by direction of the Lord Chancellor, to be left with the usher of the judge, for the use of the registrar in attendance in court. In case a correct printed copy of the bill shall have been so left, it will not be necessary to leave another printed copy of the bill on bespeaking the decree.

*If any Admissions are to be entered as read.*

(Cons. Ord. 1, rule 44).

23. The original paper of admissions, signed by the parties or their solicitors, to be indorsed by the registrar. The admissions, when so indorsed, are to be filed in the Report Office, before the decree is left to be passed.

and a memorandum thereof is to be made on the decree by the Clerk of Reports.

*If a Memorandum has been entered of Service of a Copy of the Bill on any Defendant.*

24. The order to enter the memorandum of service with the Record and Writ Clerk's certificate of the entry thereof, and of no appearance by the defendant so served.

*If a Traversing Note has been filed, and the Defendant does not appear at the Hearing.*

25. The Record and Writ Clerk's certificate that the note has been filed, an affidavit of service of a copy of the note, and of subpoena to hear judgment.

*If the Bill has been taken pro Confesso.*

26. The order for the Record and Writ Clerk to attend at the hearing with the record of the bill, and any previous orders as to the contempt.

*If any Affidavits have been read at the Hearing.*

27. The office copies of such affidavits, and any exhibits therein referred to.

*If any Documents have been proved at the Hearing, *Vid* Voce or by Affidavit.*

28. The order authorising them to be so proved, with the office copies of the affidavits, if any, and the documents proved.

#### ORDERS ON FURTHER CONSIDERATION.

29. Counsel's brief, the original decree or the last order on further consideration, and any subsequent orders to revive or carry on the proceedings, and the office copy of the chief clerk's certificate, and office copies of any affidavits, and any exhibits or other evidence used at the hearing.

*If the Order deals with any Purchase Money.*

30. A consent brief for the purchaser, or an affidavit of notice to him of the intended application of the purchase money, and that the conveyance has been executed and delivered to him.

#### ORDERS ON MOTIONS.

31. Counsel's brief, with his indorsement of the order made; the notice of motion, if any, annexed, and office copies of any affidavits, and any exhibits or other evidence used at the hearing of the motion.

#### ORDERS ON PETITION.

32. The original petition and counsel's brief, with his indorsement of the order made, and any decree, order, or the office copy of any certificate on which the petition is founded, and office copies of any affidavits, and any exhibits or other evidence used at the hearing.

*Under the Settled Estates Act.*

33. In addition to the documents mentioned in regulation 32, the newspapers containing the advertisement of the petition, and any interlocutory orders that may have been made relating thereto.

*Orders under Acts authorising Public Works.*

(Cons. Ord. 34, rule 3).

34. Where the order deals with any money paid into court by the promoters of any public undertaking, to the credit of such undertaking, not standing to any separate account, the Accountant-General's certificate of the payment into court of the sum sought to be dealt with, and also the Accountant-General's certificate of the fund in court to the credit of the undertaking; and when the order directs the carrying over of the

money to a separate account, or payment of the same out of court to any person entitled thereto, an affidavit of the petitioner verifying the petition, and negating any adverse right or claim, in the terms of the Cons. Ord. 34, rule 3, and any other evidence used at the hearing.

*Orders for winding up Companies.*

35. In addition to the documents mentioned in regulation 32, the affidavit of the service of the petition, and the London Gazette and newspapers containing the advertisement thereof.

#### ORDERS VACATING RECEIVER'S RECOGNISANCES.

36. An office copy of the receiver's recognisance from the office of the Clerk of Inrolments.

#### FEES AND STAMPS.

37. Where a fee of less than 3*l.* is payable on any decree or order, such fee will be payable by affixed stamps, and the stamp affixed to the decree or order is to be of an amount corresponding as nearly as practicable with the amount of the stamp which it requires, so that no greater number of adhesive stamps may be affixed thereto than is actually necessary; and solicitors are requested not to cancel any adhesive stamps affixed to decrees and orders drawn up by the registrars, as such stamps will be cancelled by the registrar on passing the decree or order.

#### DECREES OR ORDERS INGROSSED ON IMPRESSED STAMPS TO BE CANCELLED IF NOT DULY PAID FOR.

38. When a decree or order ingrossed on an impressed stamp is not paid for within one calendar month from the day on which such decree or order is ingrossed, it will be cancelled, and the stamp recovered as spoiled; and in case the party shall afterwards desire to have the decree or order ingrossed, he will be required to pay the stationer's charges for the same.

*Note.*—Solicitors and their clerks, on bespeaking or applying respecting orders made in any ex parte matter, are requested to inquire for the same by the title thereof as it appeared in the Court Paper. Decrees and Orders drawn up by the registrars will, when entered, be delivered to the solicitor having the carriage thereof, with his papers, by the assistant clerks to the registrars.

#### REGISTRARS' CERTIFICATES OF SALE, TRANSFER, OR DELIVERY.

39. Every certificate for sale, transfer, or delivery of any stocks, funds, shares, or securities, before being submitted to the registrar for signature, is to be examined by one of the registrars' clerks at the order of course seat, who is to mark the same as examined, and sign his initials at the foot, in the left-hand margin thereof, thus:—

Ex<sup>d</sup>. A. B.

*Certificates under the Cons. Ord. 1, rule 8.*

40. The registrars, previously to issuing certificates for the transfer or delivery of stocks, funds, shares, or securities, pursuant to the Cons. Ord. 1, rule 8, will require the following evidence to be produced; and the affidavits of identity may be in the forms given in Cases 1, 2, and 3, according to the circumstances:—

#### Case 1.

If the order direct such transfer or delivery to the legal personal representatives of a deceased person named in the order, but without naming such representatives in the order, and any of such representatives be dead, leaving survivors or a survivor, the probate or letters of administration of the deceased person named in the order, a certificate of the burial of the deceased repre-

sentative, or an official extract from the register of deaths, of his death, and an affidavit of his identity.

### Case 2.

If the order direct such transfer or delivery to any persons named in the order as the legal personal representatives of a deceased person, and any of such representatives be dead, leaving survivors or a survivor, a certificate of the burial of such deceased representative, or an official extract from the register of deaths, of his death, and an affidavit of his identity.

### Case 3.

If the order direct such transfer or delivery to any person named in the order, or his legal personal representatives, and such person be dead, the probate or letters of administration, a certificate of the burial of such deceased person, or an official extract from the register of deaths, of his death, and an affidavit of his identity; and if any of the legal personal representatives be also dead, leaving survivors or a survivor, the further evidence mentioned in Case 1.

#### Form of Affidavit in Case 1.

I, [the deponent], of &c., make oath and say, that I was well acquainted with A. B., deceased, and that he was the person to whom the probate of the will [or, letters of administration of the effects] of C. D., deceased, the person named in the order dated the — day of —, was [or, were] granted by her Majesty's Court of Probate, [or as the case may be], on the — day of —, jointly with E. F. and G. H., which probate, [or, letters of administration], marked X, is [or, are] now produced and shewn to me; and that the said A. B. is also the person named in the certificate of burial [or, official extract from the register of deaths] hereunto annexed.

#### Form of Affidavit in Case 2.

I, [the deponent], of &c., make oath and say, that I was well acquainted with A. B., deceased, the person named in the order, dated the — day of —, as one of the legal personal representatives of C. D., deceased; and that the said A. B. is also the person named in the certificate of burial [or, official extract from the register of deaths] hereunto annexed.

#### Form of Affidavit in Case 3.

I, [the deponent], of &c., make oath and say, that I was well acquainted with A. B., deceased, the person named in the order dated &c., and late of &c., [following description in probate or administration], and that probate of the will [or, letters of administration of the effects] of the said A. B. was [or, were] granted by her Majesty's Court of Probate, [or as the case may be], on the — day of —, to C. D. and E. F., which probate, [or, letters of administration], marked X, is [or, are] now produced and shewn to me; and that the said A. B. is also the person named in the certificate of burial [or, official extract from the register of deaths] hereunto annexed.

*Note.*—If the person named in the order be dead, and any of his legal personal representatives be also dead, leaving survivors or a survivor, the forms in Cases 3 and 1 should be combined and adapted.

An affidavit made by or before an executor or administrator will not be received.

#### Form of Certificate of Transfer to the Representative of a Person named in an Order, but since deceased.

To the Accountant-General }  
of the Court of Chancery. } *Short Title.*

Pursuant to an order, dated &c., the first of the Consolidated Orders, rule 8, an affidavit of &c., filed the — day of —, the certificate of the burial of A. B.,

in the said order named, and the probate of the will [or, letters of administration of the effects] of the said A. B., granted on the — day of —, to E. F. and G. H., by the Court of Probate, [or as the case may be], £—, Bank 3l. per Cent. Annuities, standing &c., are to be transferred to the said E. F. and G. H.

CECIL MONRO, Senior Registrar.

Registrar's Office, 15th March, 1860.

## ORDER OF COURT.

WHEREAS, from the present state of the business before the Lord Chancellor and Master of the Rolls respectively, it is expedient that a portion of the causes set down before the Lord Chancellor to be heard before the Vice-Chancellor Sir R. T. Kindersley and the Vice-Chancellor Sir W. P. Wood should be transferred to the Master of the Rolls' book of causes for hearing: now I do hereby, at the request of the Master of the Rolls, order that the several causes set forth in the schedules hereunto subjoined be accordingly transferred from the book of causes of the Vice-Chancellor Sir R. T. Kindersley and of the Vice-Chancellor Sir W. P. Wood respectively to that of the Master of the Rolls; and I do further order, that all causes so to be transferred (although the bills in such causes may have been marked for the Vice-Chancellor Sir R. T. Kindersley or the Vice-Chancellor Sir W. P. Wood, under the Orders of Court of the 5th May, 1837, and notwithstanding any orders therein made by the Vice-Chancellors Sir R. T. Kindersley or Sir W. P. Wood respectively, or their respective predecessors) shall hereafter be considered and taken as causes originally marked for the Master of the Rolls, and be subject to the same regulations as all causes marked for the Master of the Rolls are subject to by the same Orders: provided, nevertheless, that no order made by the Vice-Chancellor Sir R. T. Kindersley, or the Vice-Chancellor Sir W. P. Wood, or their predecessors, in any such causes, shall be varied or reversed otherwise than by the Lord Chancellor or the Lords Justices.

### SCHEDULES.

#### From Vice-Chancellor KINDERSLEY'S Cause Book.

John v. John (M D)	Smith v. Domville (M D)
Swettenham v. Richardson (Cause)	Ricketts v. Martin (M D)
Willoughby v. Wilkinson (M D)	Milbank v. Lambert (M D)
Webster v. Le Hunt (Cause)	Liddard v. Liddard (M D)
Le Hunt v. Webster (Cause)	Angell v. Hayes (M D)
Grimsby v. Webster (Cause)	Jopp v. Wood (Cause)
Forest v. Newby (Cause)	Grasemann v. Skinner (M D)
Jones & Levers v. Dale (Ca.)	Wilson v. Cole (M D)
Levers v. Dale (M D)	Wheeler v. Cowling (Cause)
Debenham v. Kightley (M D)	Lewis v. Templer (M D)
	Hobday v. Peters (Cause)
	Phipps v. Child (M D)

#### From Vice-Chancellor WOOD'S Cause Book.

Billings v. Phillips (Cause)	Maud v. Maud (M D)
Stone v. Child (Cause)	Johnson v. Johnson (M D)
Hadley v. Smith (Cause)	Collins v. France (M D)
Ward v. Day (M D)	Fullbrook v. Ilbery (M D)
Pinder v. Pinder (M D)	Seymour v. Hutley (M D)
Goldsmid v. Haswell (M D)	Harcourt v. White (Cause)
Stroud v. Gwyer (M D)	Gibson v. Shaw (M D)
Kynnersley v. Sneyd (M D)	Brown v. Harte (Cause)
Broad v. Vincent (Cause)	Kennedy v. Kelly (M D)
Bidwell v. Walters (M D)	Bligh v. Davies (M D)
Charlton v. Newcastle-upon-Tyne Railway (M D)	Wallis v. Haynes (M D)
Cook v. Humphrey (M D)	Hunter v. Abram (M D)
	Elmalie v. Hollingworth (Ca.)

CAMPBELL, C.

**BILL IN PROGRESS.**

**LAW OF PROPERTY BILL.**

*(As amended on Report in the House of Lords.)*

1. Whereas it is desirable to place freehold, copyhold, and customary estates on the same footing with leasehold estates, in respect of judgments, statutes, and recognisances, as against purchasers and mortgagees, and also to enable purchasers and mortgagees of estates, whether freehold, copyhold, or customary or leasehold, to ascertain when execution has issued on any judgment, &c., and to protect them against delay in the execution of the writ: be it therefore enacted, that no judgment, &c. shall affect any land, of whatever tenure, as to a bona fide purchaser for valuable consideration, or a mortgagee, (whether such purchaser or mortgagee have notice or not of any such judgment, &c.), unless a writ or other due process of execution of such judgment, &c. shall have been issued and registered as hereinafter is mentioned before the execution of the conveyance or mortgage to him, and the payment of the purchase or mortgage money by him; but as to judgments, &c. already entered up, the same shall be binding on purchasers and mortgagees, as far as by law they were binding on them before the passing of this act, if any writ of execution or other process issued thereon at any time before the 1st November, 1860, be registered as hereinafter mentioned on or before that day: provided always, that no judgment, &c., nor any writ of execution or other process thereon, shall affect any land, of whatever tenure, as to a bona fide purchaser or mortgagee, although execution or other process shall have issued thereon, and have been duly registered, unless such execution or other process shall be executed and put in force within three calendar months from the time when it was registered.

2. Relates to the mode of registering.

3. Protection of heirs and executors against unregistered judgments.

4. Judgments as against heirs and executors to be re-registered.

5. In the construction of the previous provisions the term "judgment" shall be taken to include registered decrees, orders of courts of equity and bankruptcy, and other orders having the operation of a judgment.

6. No purchaser for valuable consideration, or mortgagee, shall be bound by any implied or constructive notice of any charge, or of anything affecting the title to the property purchased or taken in mortgage, unless the court shall be of opinion that the conduct of such purchaser or mortgagee amounted to fraud.

7. Where any actual waiver of the benefit of any covenant or condition in any lease on the part of any lessor, or his heirs, executors, administrators, or assigns, shall be proved to have taken place after the passing of this act in any one particular instance, such actual waiver shall not be assumed or deemed to extend to any instance, or any breach of covenant or condition, other than that to which such waiver shall specially relate, nor to be a general waiver of the benefit of any such covenant or condition, unless an intention to that effect shall appear.

8. Provision for cases of future and contingent uses.

9. Sect. 24 of stat. 22 & 23 Vict. c. 35, extended to mortgagees.

10. In taxing the costs of preparing abstracts of title, where unnecessary length is complained of, the Taxing Master shall not treat the 24th section of stat. 22 & 23 Vict. c. 35, as authorising or requiring any information in regard to title which would not have been justified by the practice of solicitors acting bona fide before the passing of the said act, the provision of the said section having been directed against fraud only.

11. Where any trustee, executor, or administrator shall apply for the opinion, advice, or direction of a judge of the Court of Chancery, under the 30th section of stat. 22 & 23 Vict. c. 35, the petition or statement shall state the facts concisely, and shall be divided into paragraphs, and every paragraph shall be numbered consecutively, and such petition or statement shall be signed by counsel, and the judge by whom it is to be answered may require the petitioner or applicant

to attend him by counsel, either in chambers or in court, where he deems it necessary to have the assistance of counsel.

12. Sect. 32 of the said stat. 22 & 23 Vict. c. 35, is hereby repealed.

13. Act not to extend to Scotland.

**THE COURT OF PROBATE, AND COURT FOR DIVORCE AND MATRIMONIAL CAUSES.**

THE judge will sit in the Court of Probate and the Court for Divorce and Matrimonial Causes on Monday, the 26th, and Tuesday, the 27th March, and take the causes to be heard before himself without a jury; and on Thursday, the 29th, Friday, the 30th, and Saturday, the 31st March, in the Court of Probate, to hear the causes to be tried by jury.

**COMMISSIONER TO ADMINISTER OATHS IN COMMON LAW.**—Frederick Green, Gent., of No. 10, Angel-court, Throgmorton-street, City, has been appointed a London Commissioner for administering oaths in common law in the Courts of Queen's Bench, Common Pleas, and Exchequer.

The Right Hon. Sir William Erle, Knt., Lord Chief Justice of her Majesty's Court of Common Pleas at Westminster, has appointed Frederick Green, Gent., of Angel-court, Throgmorton-street, City, to be one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women, in and for the city of London, also in and for the city and liberties of Westminster, and the county of Middlesex.

at 11, London, div.—*Richard Clark* and *John Inglis*, King's-cross, Middlesex, drapers, April 11 at 11, London, first and fin. div.—*John E. Ford*, Aldermanbury and Addle-street, City, stock manufacturer, April 11 at half-past 12, London, div.—*Thomas Game*, Coldwaltham, Sussex, corn dealer, April 11 at 1, London, div.—*Joseph B. Latchford*, Regent-street, Middlesex, hosiery, April 11 at half-past 1, London, div.—*John Upton*, Brighton, Sussex, plumber, April 11 at 12, London, div.—*Hansard J. Bridges*, Wandsworth-road, Surrey, and Stowmarket, Suffolk, brewer, April 11 at half-past 11, London, fin. div.—*Wm. Hirst*, Derby, silk manufacturer, April 19 at half-past 11, Nottingham, div.

**CERTIFICATES.**

*To be allowed, unless Cause be shown to the contrary on or before the Day of Meeting.*

*John A. Joselyne* and *Thomas Taylor*, High Holborn, Middlesex, milliners, April 12 at half-past 11, London.—*Edward Harris*, Folkstone, Kent, tailor, April 11 at 2, London.—*Charles Muston*, Red Lion-street, Clerkenwell, Middlesex, watch-case maker, April 12 at 2, London.—*Thomas Tidswell*, Nottingham, lacemaker, May 1 at half-past 11, Nottingham.—*Edward E. Hill*, Liverpool, merchant, April 11 at 12, Liverpool.

*To be granted, unless an Appeal be duly entered.*

*Joseph Taylor*, Sunbury, Middlesex, builder.—*Robert O. Wilkins*, Appledram, near Chichester, Sussex, corn dealer.—*John Reynolds*, Manchester, yarn agent.

**SCOTCH SEQUESTRATIONS.**

*George Chisholm*, Glasgow, commission agent.—*Peter Brown*, Dundee, tailor.—*Jeremiah Dobson*, Paisley, clothier.—*Brownlow John Jarvis North*, Edinburgh.—*Shackleton, Kusel, & Co.*, Glasgow, wholesale jewellers.

Just published, price 2s. 6d. sewed,  
**A TREATISE on the RAILWAY and CANAL TRAFFIC ACT, 1854, (17 & 18 Vict. c. 31);** with all the Cases decided to the present time. To which is appended the Act, and Regular Generales made pursuant thereto. By GILMORE EVANS, B.A., Barrister at Law.

H. Sweet, 3, Chancery-lane.

#### WILLIAMS ON REAL PROPERTY.

Just published, the Fifth Edition, price 18s. cloth,  
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HENRY COOPER, Aldgate, City, grocer, April 2 at half-past 2, and May 7 at 11, London: Off. Ass. Pennell; Sols. Wright & Bonner, 15, London-street, Fenchurch-street.—Pet. f. March 20.

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NATHANIEL SMITH the younger, formerly of London, Canada West, America; since of Horsham, Martley, Worcestershire; and now a prisoner for debt in the Gaol of Worcester, hotel keeper, April 5 and May 3 at 11, Birmingham: Off. Ass. Whitmore; Sols. Wilson, Worcester; E. & H. Wright, Birmingham.—Pet. d. March 16.

SOLOMON PORTMAN, Oldbury, Worcestershire, innkeeper, April 2 and 30 at 11, Birmingham: Off. Ass. Kinneir; Sol. Saunders, Birmingham.—Pet. d. March 15.

JAMES HENDERSON, Nottingham, draper, April 3 and May 1 at half-past 11, Nottingham: Off. Ass. Harris; Sol. Wells, Nottingham.—Pet. d. March 22.

THOMAS SAMPSON, Stroud, shawl manufacturer, and WILLIAM BARNARD, Minchinhampton and Stroud, Gloucestershire, woollen cloth manufacturer, (trading under the firm of Thomas Sampson & Co.), April 3 and May 1 at 11, Bristol: Off. Ass. Acraman; Sols. Abbot & Co., Bristol.—Pet. f. March 9.

ROGER DIVINE M'MANUS, St. Austell, Cornwall, apothecary, April 4 and May 9 at 12, Exeter: Off. Ass. Hirtzel; Sol. Moore, Exeter.—Pet. f. March 21.

JAMES LONG, Leeds, Yorkshire, spirit merchant, April 12 and May 4 at 11, Leeds: Off. Ass. Young; Sols. Cariss & Cudworth, Leeds.—Pet. d. March 10.

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## MEETINGS.

*Joseph Pattenden*, Leonard-street, Shoreditch, Middlesex, general dealer, April 7 at 12, London, ch. ass.—*H. Watts*, Northampton, draper, April 11 at 1, London, last ex.—*J. R. W. J. P. Woodward*, Oundle, Northamptonshire, innkeeper, April 11 at 12, London, aud. ac.—*David Sillar* and *John C. Sillar*, Liverpool, and Shanghai, China, merchants, April 16 at 11, Liverpool, aud. ac. sep. est. of *David Sillar*.—*Robert Dean*, Liverpool, plumber, April 2 at 1, Liverpool, aud. ac.—*Henry Smith* and *Henry Mills*, Chester, newspaper proprietors, April 13 at 12, Liverpool, aud. ac.—*George Mellor* and *James Terras*, Manchester, joiners, April 5 at 12, Manchester, aud. ac.; April 20 at 12, div.—*John Walker*, Bridlington, Yorkshire, coal merchant, April 25 at 12, Kingston-upon-Hull, aud. ac. and div.—*John H. Rawell*, Leadenhall-

street, City, tailor, April 13 at half-past 11, London, div.—*W. Westrup* and *T. M. Cockedge*, Newcrane, Shadwell, Middlesex, and Northfleet, Kent, millers, April 13 at 11, London, div.—*Thomas Simmons*, Hurst, Berkshire, cattle salesman, April 13 at 11, London, div.—*T. Roberts*, Blackman-street, Southwark, Surrey, hosiery-draper, April 13 at 1, London, div.—*John Easton*, Clapham-road-place, Clapham-road, builder, April 13 at half-past 12, London, div.—*Robert A. Rist*, Great Marlborough-street, Regent-street, Middlesex, pianoforte manufacturer, April 13 at half-past 11, London, div.—*B. W. Pearce*, Bayham-terrace, Camden-town, Middlesex, builder, April 14 at 1, London, div.—*Joseph Taylor*, Sunbury, Middlesex, builder, April 16 at half-past 11, London, div.—*George Selby*, Ironmonger-lane, London, and Birmingham, and Smethwick-grove, near Birmingham, Warwickshire, iron enameller, April 14 at half-past 1, London, div.—*John Thomas Rowe*, Liverpool, merchant, April 13 at 11, Liverpool, div.—*George Deane* and *Frederick Youle*, Liverpool, merchants, April 13 at 11, Liverpool, div.—*James L. Cross*, Liverpool, insurance broker, April 16 at 11, Liverpool, div.—*F. Saldorf*, Plymouth, Devonshire, cornfactor, April 23 at half-past 12, Plymouth, div.

## CERTIFICATES.

*To be allowed, unless Cause be shown to the contrary on or before the Day of Meeting.*

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## TUESDAY, March 27.

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ROBERT TANNER, Maryland-street, Stratford, Essex, tea dealer, April 14 at 11, and May 4 at 12, London: Off. Ass. Cannan; Sols. Blakeley & Stone, 5, Barge-yard, Bucklersbury.—Pet. f. March 24.

DENIS NICHOLAS VERICCHIO, (by the name of Denis Nicholas Verichio), Wellington-terrace, Paddington, Middlesex, upholsterer, April 7 at 11, and May 8 at 1, London: Off. Ass. Edwards; Sol. Levy, 18, Arundel-street, Strand.—Pet. f. March 22.

THOMAS JOHN BOYD WALLIS, Colchester, Essex, draper, April 7 at 11, and May 7 at 1, London: Off. Ass. Pennell; Sols. J. B. & E. Whitworth, Manchester; Walker & Harrison, 5, Southampton-street, Bloomsbury, Middlesex.—Pet. f. March 1.

JOHN LOUGH MORELAND, Lidford and Keinton, Somersetshire, grocer, April 16 and May 14 at 11, Bristol: Off. Ass. Acraman; Sols. Blake, Langport; Bevan & Co., Bristol.—Pet. f. March 3.

## MEETINGS.

*Hugh Woodney Corbett*, Liverpool, merchant, April 13 at 11, Liverpool, pr. d.—*Ellen Susannah West*, Bingham

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THE JURIST.

LONDON, MARCH 31, 1860.

THE Imperial Court of Paris has lately decided that no action lies for defamation of a deceased person at the suit of members of his family. This decision has recalled to us a conversation between Boswell and Johnson upon the subject. "I mentioned," says Boswell\*, "Mr. Maclaurin's uneasiness on account of a degree of ridicule carelessly thrown on his deceased father in Goldsmith's 'History of Animated Nature,' in which that celebrated mathematician is represented as being subject to fits of yawning so violent as to render him incapable of proceeding in his lecture—a story altogether unfounded, but for the publication of which the law would give no reparation. This led us to agitate the question, whether legal redress could be obtained even when a man's deceased relative was calumniated in a publication. Mr. Murray maintained that there should be reparation, unless the author could justify himself by proving the fact. Johnson—'Sir, it is of so much more consequence that truth should be told than that individuals should not be made uneasy, that it is much better that the law does not restrain writing freely concerning the characters of the dead. Damages

will be given to a man who is calumniated in his lifetime, because he may be hurt in his worldly interest, or at least hurt in his mind; but the law does not regard that uneasiness which a man feels on having his ancestor calumniated. That is too nice. Let him deny what is said, and let the matter have a fair chance by discussion. But if a man could say nothing against a character but what he can prove, history could not be written; for a great deal is known of men of which proof cannot be brought. A minister may be notoriously known to take bribes, and yet you may not be able to prove it.' Mr. Murray suggested that the author should be obliged to shew some sort of evidence, though he would not require a strict legal proof; but Johnson firmly and resolutely opposed any restraint whatever, as adverse to a free investigation of the characters of mankind." Boswell, confounding the distinction between civil and criminal proceedings, adds, in a note—"What Dr. Johnson has here said is undoubtedly good sense, yet I am afraid that law, though defined by Lord Coke 'the perfection of reason,' is not altogether with him; for it is held in the books, that an attack on the reputation even of a dead man may be punished as a libel, because tending to a breach of the peace. There is, however, I believe, no modern decided case to that effect. In the King's Bench, Trinity Term, 1790, the question occurred on occasion of an indictment, *The King v. Topham*, who, as proprietor of a newspaper intitled 'The World,' was found guilty of

\* By Croker, vol. 3, p. 379.

a libel against Earl Cowper, deceased, because certain injurious charges against his Lordship were published in that paper. An arrest of judgment having been moved for, the case was afterwards solemnly argued. My friend Mr. Const, whom I delight to have an opportunity to praise, not only for his abilities, but his manners—a gentleman whose ancient German blood has been mellowed in England, and may be truly said to unite the baron and the barrister—was one of the counsel for Mr. Topham. He displayed much learning and ingenuity upon the general question, which, however, was not decided, as the Court granted an arrest, chiefly on the informality of the indictment."

In 2 Starkie on Slander and Libel, 212, 2nd ed., the law upon this question is thus stated:—"An indictment lies for a libel reflecting upon the memory of a person who is dead, if it be published with the malevolent purpose to injure his family and posterity, and to expose them to contempt and disgrace; for the chief cause of punishing offences of this nature is their tendency to a breach of the peace; and although the party be dead at the time of publishing the libel, yet (according to Lord Coke) it stirs up others of the same family, blood, or society, to revenge and to break the peace. (5 Rep. 125; Hawk. Pl. Cr., c. 73, ss. 1, 3; *Rea v. Walter*, 2 Esp. 61). In the case of *The King v. Oriskany* (4 T. R. 129, in notis) an information was granted against the defendant for publishing the following libel upon Sir C. Gaunter Nicoll, Lady Dartmouth's father, and on the Government:—"On Saturday evening died, of the small-pox, Sir C. G. Nicoll, Knight of the most honourable Order of the Bath, and representative in Parliament of the borough of Peterborough. He could not be called a friend to his country, for he changed his principles for a red riband, and voted for that pernicious project, the excise." But, as was observed by Lord Kenyon, C. J., in the case of *The King v. Topham*, (4 T. R. 129), "To say that the conduct of a dead person can at no time be canvassed—to hold that even after ages are past the conduct of bad men cannot be contrasted with that of the good—would be to exclude the most useful part of history." The malicious intention of the defendant, therefore, to injure the family and posterity of the deceased must be expressly averred, and clearly proved."

### THE BANKRUPTCY BILL.

In this number of *THE JURIST* is given as full an abstract of the Bankruptcy Bill as our limits will admit. In passing from the Attorney-General's speech on the bill to the bill itself, we encountered such a shock as we have often felt on turning from some forensic flight of the same successful advocate to the evidence in the cause. The measure was well designed, the advocate was well crammed, and he delivered himself of his cram in a most effective manner; but the promoters of the bill have so egregiously failed in their choice of a draftsman, that we cannot believe it to be possible to pass the bill until it has been entirely redrawn, even though, by an inversion of the usual fate of bills, it should be amended in committee. Amended it cannot fail to be if it suffer any change. The bill is a conglomeration of fragments from the Consolidation Act of 1849 (which we now see is by no means the worst drawn of all possible acts) and the Insolvent Debtors Act; clauses probably drawn by the gentlemen who have suggested the various alterations they are intended to effect, (and these, though incomplete and inartistic, are easily recognised as the work of thinking men); and, lastly, clauses drawn to order by the hand that has tossed the whole mess of 538 sections and 11 schedules (filling 150 folio pages) into its present amorphous condition.

If the gentlemen who undertook to get the bill drawn despaired of finding a man gifted with the rare ability to draw an act of Parliament well, or, having found him; were unable to tempt him with the miserable fee which our Government is in the habit of offering for such work, they might surely have found in some individual the not uncommon gifts of a moderate knowledge of the use of language, some theoretical and a little practical familiarity with bankruptcy law, and conscientious industry, combined with the accident of such a deficiency of profitable employment as would render even the meagre Treasury allowance acceptable. We have not space for any detailed criticism of this miserable bill, but a few specimens, selected at random, must be given to justify our condemnation.

After clauses defining the procedure to obtain adjudication of bankruptcy on the petition of a creditor, and on the petition of the debtor, we come to a clause containing these words:—"In the computation of debts for the purpose of any petition under this act, there shall not be reckoned, 1, the amount of the debts in respect of which the petitioner has already taken the benefit of insolvency, protection, or bankruptcy; 2, debts barred by any Statute of Limitations." We have a faint suspicion that this clause is intended to refer exclusively to petitions by debtors; and by so limiting it we should avoid the difficult problem of determining when a creditor has "taken the benefit of insolvency, protection, or bankruptcy." But when has a debtor taken the benefit of insolvency, of protection, or of bankruptcy? As we have hitherto, without any enactment, excluded debts barred by the Statute of Limitations, and also all other claims which the Courts, acting in analogy to that statute, refuse to enforce, from proof in bankruptcy, for any purpose, the express provision which forms the second member of the above clause could serve no other purpose than to imply that for any other purpose than that of supporting a petition, debts barred by the statute may be proved, and that, for any purpose, claims not within the statute, but only barred by analogy, may be proved.

Here is a specimen of style:—"If upon such examination it shall appear that the creditors' assignee has kept in his hands, at any time during the space of one week, more than the sum of 50*l.* belonging to the estate, the creditors may, upon establishing such fact to the satisfaction of the Court, and if the assignee shall not shew cause to the contrary, debit such assignee with interest for the amount so kept, at any rate not exceeding 20*l.* per cent. by the year, for the time such monies were kept in his hands."

It would be worth while to pass this clause, in order to see what would be the consequences of "debiting" the assignee with interest. We can imagine the Court saying to the assignee, "Sir, you are debited with interest on this sum;" and the assignee replying, "Very well, sir; what then?"

By sect. 381 the Court is authorised to make an order vesting the bankrupt's copyholds in any person without admittance, and without payment of any fees or a fine; and by sect. 383 the lord, or his steward, or steward's deputy, is bound to enter the vesting order on the rolls gratis.

Sect. 158 coolly abolishes the remedy of every creditor to recover his debt by action at law, for it makes the levying of a judgment debt by seizure and sale an act of bankruptcy, upon which, at any time within a year, a petition in bankruptcy may be presented, with the effect of defeating the title of the purchaser from the sheriff, and of obliging the creditor to refund the proceeds of the sale, if the sheriff has been so regardless of his own security as to pay them over to him. But the draftsman, not content with defeating every execution actually levied by seizure and sale, takes care, in sect. 251, to import from the stat. 1 & 2 Vict. c. 110, a

provision, that *after adjudication* no judgment creditor shall proceed to a seizure or sale; and by another independent clause (sect. 245) he provides that an execution levied sixty days before the filing of the petition shall be unavailable.

In sect. 236 we have the reputed ownership clause from the act of 1849, under which the goods do not vest in the assignee, but may be sold by the Court. In sect. 246 we have a reputed ownership clause, which vests them in the assignee.

Sect. 254 exempts sales in bankruptcy from auction duty.

Sect. 247 invalidates, as a fraudulent preference, every payment made by a debtor to any creditor, on account of his claim, within sixty days before the commencement of proceedings in bankruptcy, unless the payment was made for a reasonable and sufficient consideration, *given at the time!* So that no one who asks for payment of his debt, and obtains it, can during the next two months call the money his own; and what would formerly have been set aside as a fraudulent preference will be protected if sixty days elapse before the filing of the petition. The framer of this clause was probably dreaming of the 59th section of the stat. 1 & 2 Vict. c. 110.

The words "or any of such matters," in the 224th section of the act of 1849, (relating to arrangements by deed), which gave rise to the conflicting decisions in *Tetley v. Taylor* (1 El. & Bl. 521) and *Drew v. Collins*, (6 Exch. 670), and were, in effect, struck out of the act by the ultimate decision in *Tetley v. Taylor*, are reproduced in sect. 303 of the present bill, with a somewhat different context; so that one may expect to have a second course of litigation in order to strike them out again.

No deed of arrangement is to bind non-executing creditors unless it is executed by three-fourths of the creditors and by the trustees *within seven days after the execution of the deed by the debtor*. It will not do to postpone the execution by the debtor until the other signatures have been obtained; he must execute first, and within the next seven days three-fourths of his creditors in England, Ireland, Scotland, Canada, India, or Australia, must execute. (There is an exemption from this condition as to creditors in a *foreign* country, if the deed is an *assignment* in a prescribed form. Sect. 401.) We shall need a sealing as well as a writing telegraph.

By sect. 394, no deed, by which a debtor makes an arrangement with his creditors, or any person on their behalf, touching the inspection or winding up of his affairs and estate, shall be valid "or good in law," unless it is registered in the Court of Bankruptcy within fourteen days after execution by the debtor; and the registration is to set out the date, and the names and descriptions of the parties to the deed; and all these particulars are to be published in the London Gazette!

Of course the draftsman has not thought it necessary to say whether this impertinent interference is to be confined to arrangements between a debtor and *all* his creditors, (in which case it would be absolutely senseless), or to arrangements with a majority of the creditors.

But the greatest curiosity is the 398th section, which gives to any such deed as is mentioned in sect. 394 the effect of bankruptcy, and by mere force of the deed, and without proof, places the creditors in the position of creditors who have proved their debts; while the next section makes the deed a summary protection against process.

We recommend such of our readers as desire any further proof of the draftsman's incapacity to collate the marginal abstracts of the clauses with the clauses themselves.

## REGULA GENERALIS.

ORDER OF COURT.—March 20, 1880.

THE Right Hon. JOHN LORD CAMPBELL, Lord High Chancellor of Great Britain, by and with the advice and assistance of the Right Hon. Sir JOHN ROMILLY, Master of the Rolls, the Right Hon. the Lord Justice Sir JAMES LEWIS KNIGHT BRUCE, the Right Hon. the Lord Justice Sir GEORGE JAMES TURNER, the Hon. the Vice-Chancellor Sir RICHARD TORIN KINDERSLEY, the Hon. the Vice-Chancellor Sir JOHN STUART, and the Hon. the Vice-Chancellor Sir WILLIAM PAGE WOOD, doth hereby, for the purpose of carrying into effect the provisions contained in the 30th section of stat. 22 & 23 Vict. c. 85, and intituled "An Act to further amend the Law of Property, and to relieve Trustees," and in pursuance and execution of all powers enabling him in that behalf, order and direct as follows:—

1. All petitions, summonses, statements, affidavits, and other written proceedings under the 30th section of the said act, shall be intituled "In the matter of the said act, and in the matter of the particular trust, will, or administration;" and every such petition and statement shall be marked in manner directed by the 6th of the Consolidated General Orders, rule 6; and every such petition or statement shall state the facts concisely, and shall be divided into paragraphs, numbered consecutively; and every such summons shall, except as to its title, be in the form of the general summons in Schedule (K.), No. 1, subjoined to the Consolidated General Orders.

2. At the time when any such summons is sealed, the statement upon which the same is grounded shall be left at the chambers of the judge, and shall, on the conclusion of the proceeding, be transmitted to the registrar by the chief clerk, with the minutes of the opinion, advice, or direction given by the judge; and the registrar shall cause such statement to be transmitted to the Report Office, to be there filed.

3. Every such petition or summons shall be served seven clear days before the hearing thereof, unless the person served shall consent to a shorter time.

4. The opinion, advice, or direction of the judge shall be passed and entered, and remain as of record, in the same manner as any order made by the court or judge, and the same shall be termed "a judicial opinion," or "judicial advice," or "judicial direction," as the case may be.

5. The fees of court, and the fees and allowances to solicitors, on proceedings under the 30th section of the said act, shall be the same as are now payable under the Consolidated General Orders 38 and 39, and by the practice of the Court for business of a similar nature.

CAMPBELL, C.  
JOHN ROMILLY, M. R.  
J. L. KNIGHT BRUCE, L. J.  
G. J. TURNER, L. J.  
RICHD. T. KINDERSLEY, V. C.  
JOHN STUART, V. C.  
W. P. WOOD, V. C.

## Court Papers.

EQUITY SITTINGS, EASTER TERM, 1880.

### Court of Chancery.

Before the LORD CHANCELLOR.

At Westminster.

Monday .. April 16 } Appeal Motions and Appeals.

At Lincoln's Inn.

Tuesday .. 17 } Petitions and Appeals.

Wednesday .... 18 } Appeals.

Thursday ..... 19 }

Friday .....	20	} Appeals.
Saturday .....	21	
Monday .....	23	
Tuesday .....	24	
Wednesday .....	25	} Appeal Motions and Appeals.
Thursday .....	26	
Friday .....	27	
Saturday .....	28	
Monday .....	30	} Appeals.
Tuesday .... May 1		
Wednesday ....	2	
Thursday .....	3	
Friday .....	4	} Appeals.
Saturday .....	5	
Monday .....	7	
Tuesday .....	8	

*Notice.*—Such days as his Lordship shall be engaged in the House of Lords are excepted.

#### *Before the LORDS JUSTICES.*

##### *At Westminster.*

Monday .. April 16 Appeal Motions.

##### *At Lincoln's Inn.*

Tuesday .....	17	} Appeals.
Wednesday ....	18	
Thursday .....	19	
Friday .....	20	
Saturday .....	21	} Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Monday .....	23	
Tuesday .....	24	
Wednesday ....	25	
Thursday .....	26	} Appeals.
Friday .....	27	
Saturday .....	28	
Monday .....	30	
Tuesday .... May 1		} Appeals.
Wednesday ....	2	
Thursday .....	3	
Friday .....	4	
Saturday .....	5	} Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Monday .....	7	
Tuesday .....	8	

*Notice.*—The days (if any) on which the Lords Justices shall be engaged in the full Court, or at the Judicial Committee of the Privy Council, are excepted.

#### *Before the MASTER OF THE ROLLS.*

##### *At Westminster.*

Monday .. April 16 Motions.

##### *At Chancery-lane.*

Tuesday .....	17	} General Paper.
Wednesday ....	18	
Thursday .....	19	
Friday .....	20	
Saturday .....	21	} Petitions.
Monday .....	23	
Tuesday .....	24	
Wednesday ....	25	
Thursday .....	26	} General Paper.
Friday .....	27	
Saturday .....	28	
Monday .....	30	
Tuesday .... May 1		} General Paper.
Wednesday ....	2	
Thursday .....	3	
Friday .....	4	
Saturday .....	5	} Petitions.
Monday .....	7	
Tuesday .....	8	

N. B.—Short Causes, Short Claims, Consent Causes, Petitions, and Claims every Saturday. The Unopposed Petitions will be taken first, and such Petitions must be presented and copies left with the Secretary on or before the Thursday preceding the Saturday on which it is intended they should be heard.

#### *Before the Vice-Chancellor Sir RICHARD T. KINDERSLEY.*

##### *At Westminster.*

Monday .. April 16 Motions.

##### *At Lincoln's Inn.*

Tuesday .....	17	} General Paper.
Wednesday ....	18	
Thursday .....	19	
Friday .....	20	
Saturday .....	21	} Petitions and General Paper. Short Causes, Adjourned Summonses, and General Paper.
Monday .....	23	
Tuesday .....	24	
Wednesday ....	25	
Thursday .....	26	} Motions and General Paper. General Paper.
Friday .....	27	
Saturday .....	28	
Monday .....	30	
Tuesday .... May 1		} General Paper. Motions and General Paper.
Wednesday ....	2	
Thursday .....	3	
Friday .....	4	
Saturday .....	5	} Short Causes, Adjourned Summonses, and General Paper. Remaining Petitions and General Paper.
Monday .....	7	
Tuesday .....	8	

#### *Before the Vice-Chancellor Sir JOHN STUART.*

##### *At Westminster.*

Monday .. April 16 Motions.

##### *At Lincoln's Inn.*

Tuesday .....	17	} General Paper.
Wednesday ....	18	
Thursday .....	19	
Friday .....	20	
Saturday .....	21	} Petitions and General Paper. Short Causes and General Paper.
Monday .....	23	
Tuesday .....	24	
Wednesday ....	25	
Thursday .....	26	} Motions. General Paper.
Friday .....	27	
Saturday .....	28	
Monday .....	30	
Tuesday .... May 1		} General Paper. Motions.
Wednesday ....	2	
Thursday .....	3	
Friday .....	4	
Saturday .....	5	} Petitions and General Paper. Short Causes and General Paper.
Monday .....	7	
Tuesday .....	8	

#### *Before the Vice-Chancellor Sir W. P. WOOD.*

##### *At Westminster.*

Monday .. April 16 Motions.

##### *At Lincoln's Inn.*

Tuesday .....	17	} General Paper.
Wednesday ....	18	
Thursday .....	19	
Friday .....	20	
Saturday .....	21	} Petitions, Short Causes, and General Paper.
Monday .....	23	
Tuesday .....	24	
Wednesday ....	25	
Thursday .....	26	} Motions and General Paper. General Paper.
Friday .....	27	
Saturday .....	28	
Monday .....	30	
Tuesday .... May 1		} General Paper. Petitions, Short Causes, and General Paper.
Wednesday ....	2	
Thursday .....	3	
Friday .....	4	
Saturday .....	5	} Petitions, Short Causes, and General Paper.

Monday..... 7 { Remaining Petitions and General Paper.  
Tuesday..... 8 { Motions and General Paper.

# COMMON-LAW SITTINGS, IN AND AFTER EASTER TERM, 1880.

## Court of Queen's Bench.

### In Term.

MIDDLESEX.	LONDON.
1st sitting, Tuesday, April 17	1st sitting, Monday, April 23
2nd sitting, Wednesday .. 25	2nd sitting, Monday .... 30
3rd sitting, Wednesday, May 2	
For undefended causes only.	

### After Term.

Wednesday ..... May 9 | Saturday ..... May 12  
The Court will sit at ten o'clock every day.

The causes in the list for each of the above sitting days in term, if not disposed of on those days, will be tried by adjournment on the days following each of such sitting days.

## Court of Common Pleas.

### In Term.

MIDDLESEX.	LONDON.
Wednesday ..... April 18	Monday ..... April 23
Wednesday ..... 25	Monday ..... 30

### After Term.

Wednesday ..... May 9 | Saturday ..... May 12  
The Court will sit during and after term at ten o'clock.

The causes in the list for each of the above sitting days in term, if not disposed of on those days, will be tried by adjournment on the days following each of such sitting days.

## Sydney of Pleas.

### In Term.

MIDDLESEX.	LONDON.
1st sitting, Tuesday, April 17	1st sitting, Monday, April 23
2nd sitting, Wednesday .. 25	2nd sitting, Monday ..... 30
3rd sitting, Wednesday, May 2	

### After Term.

Wednesday ..... May 9 | Saturday ..... May 12  
The Court will sit during and after term at ten o'clock.

The Court will sit in Middlesex, at Nisi Prius, in term, by adjournment from day to day, until the causes entered for the respective Middlesex Sittings are disposed of.

In each of the London Sittings during term there will be two days for the trial of causes.

## BILL IN PROGRESS.

### BANKRUPTCY AND INSOLVENCY BILL.

(THE ATTORNEY-GENERAL).

*Abstract of a Bill to amend and consolidate the Laws relating to Bankruptcy and Insolvency in England.*

Sect. 1 Commencement of act, 11th October, 1880.

2. Commissioners of the Court of Bankruptcy in London released.

3 to 5. Commissioners of the Insolvent Debtors Court released.

6 to 19. The Court of Bankruptcy. Single judge. London District Court and commissioner.

20 to 40. Country districts, (Manchester, Leeds, Liverpool, Birmingham, Exeter, and Newcastle). District commissioners. Transfer of jurisdiction on vacancies to county court judges. Power to create additional county courts.

41 to 49. Jurisdiction above 300*l*. probable assets, in chief court. Under 300*l*. in London district court. Above 300*l*. in country district court. Under 300*l*. in county court. Appeal.

50 to 60. Practice and procedure of the court. Judges to sit at chambers. Registrars to sit in chambers. Questions by consent. Jury.

70 to 82. Officers of the court. Registrars. Bailiffs of county courts.

83, 84. Abolition of office of accountant. Substitution of chief registrar.

85 to 88. The Taxing Master. Settlement of bills of auctioneers, valuers, and accountants. Deputy. Registrar in country districts to be taxing officer.

89 to 102. Official assignees. Remuneration 800*l*. per annum, and further amount in each case to be allowed by judge. Limit.

103. Office of messenger abolished.

104 to 107. Vacancies. Temporary officers.

108 to 110. Short-hand writers.

111 to 124. Fees and stamps. Per-centage upon estates abolished.

125 to 130. Funds of the court.

131 to 138. Payment of salaries, compensations, and retiring annuities, and of incidental expenses.

139 to 148. Winding up of matters now depending in the court. Buildings.

149 to 151. Abolition of distinction between trader and non-trader. Aliens. Privilege of Parliament.

### 152 to 169.—Acts of Bankruptcy.

152. Departing the realm, outlawry, fraudulent arrest, attachment, execution, conveyance, surrender, gift, delivery, or transfer.

153. No deed or instrument by which a debtor shall convey, or shall covenant or agree to convey, his estate and effects, or the principal part thereof, to a trustee or trustees, for the benefit of his creditors, shall be deemed fraudulent, provided the several conditions be observed which are required in and by the 393rd section of this act. If any one of such several conditions shall not be observed or performed, the deed or assignment shall be void, and the execution thereof shall be an act of bankruptcy by the debtor.

154 to 157. Provision may be made in deed for allowance to the debtor, as in bankruptcy. Lying in prison, and escaping out of prison. Compounding with petitioning creditor. Filing a declaration of insolvency.

158. If any execution shall be levied by seizure and sale of any of the goods and chattels of any debtor, upon any judgment recovered in any action personal for the recovery of any debt or money demand in any court of record against any debtor, every debtor shall be deemed to have committed an act of bankruptcy from the date of the seizure of such goods and chattels. (See sect. 244).

159. Filing a declaration of insolvency in the foreign dominions of the Crown.

160. Judgment creditor entitled to charge the debtor in execution may, after one week from the signing of judgment, sue out a judgment debtor summons, requiring debtor to appear and be examined respecting his ability to satisfy the debt.

161. Non-payment of money under decree or order of a court of equity, or an order in bankruptcy, or insolvency, or lunacy, within a week after service of peremptory order, fixing a day for payment, entitles creditor to a judgment debtor summons.

162. The judgment debtor summons shall, unless the court shall in any case otherwise direct, issue, according to the following rules:—

Where the debtor is in England, then, in case the debt exceeds 40*l*., (exclusive of costs), out of the Court of Bankruptcy for the district in which the debtor usually lives, or, at the time of the issuing of the summons, happens to be; in other cases, out of that court, or the county court for the same district, at the option of the creditor:

Where the debtor is not in England, then, in case the debt exceeds 40*l*., (exclusive of costs), out of the Court of Bankruptcy for the district in which is the debtor's usual or last known place of abode in England; in other cases, out of that court, or the county court for the same district, at the option of the creditor.

163. Where the debtor is in England the summons shall be served personally, unless the court shall in any case direct that service in some other manner shall be good service: where the debtor is not in England, the court, upon such evidence as shall satisfy it in what place or country he is or may probably be found, may order service on him in such

place or country, or within such limit and in such manner and form as shall seem fit.

164 to 169. Duplicate of summons to sheriff. Where service cannot be personally made. Procedure upon appearance of debtor. Examination of debtor. Adjudication of bankruptcy on summons. Time to shew cause against adjudication. Debtor refusing to conform may be committed.

170 to 176. Debtor summons in respect of bill of exchange or promissory note. Option to deposit amount of bill pending action. Deposition of good defence. Order to stay proceedings at hearing. Adjudication of bankruptcy. Where acceptor is keeping out of the way.

176. No person liable upon an act of bankruptcy committed more than twelve months before filing petition.

#### *Procedure to obtain Adjudication.*

177 to 191. Proceedings to be by petition. Effect of petition. Amount of petitioning creditor's debt; single creditor 40*l.*, two creditors 60*l.*, three or more creditors 100*l.* If bankruptcy be fraudulently or maliciously prosecuted, court may order satisfaction. Debtor may petition against himself. 192 to 219. Proceedings under adjudication.

#### *221 to 224.—Procedure after Adjudication.*

221. It shall be the duty of the official assignee, immediately after adjudication, by examination of the bankrupt personally, and of his books and accounts, to ascertain the persons who are creditors of the bankrupt, and to give notice by the general post to such creditors of the first meeting of creditors.

222. At the time of adjudication the court shall appoint a meeting of the creditors, of which seven days' notice shall be given in the London Gazette, and which meeting shall be held at such time and place as the court shall appoint, having regard to the residences of the major part of the creditors.

225 to 235. Examination of bankrupt, &c.

#### *Power of Court over certain Property.*

236 to 239. Goods in order and disposition. Power of court over certain conveyances, &c. made by bankrupt. Court may proceed when the bankrupt by fraud makes himself accountable to the Crown. Where bankrupt beneficially entitled to stock, court may make order for transfer.

240. All goods and chattels of any bankrupt which shall at the filing of the petition be under seizure by virtue of any attachment shall, upon demand, be delivered up by all persons having the custody of the same to the official or creditors' assignee, as the case may be, and the court may make order accordingly.

241 to 243. Bankrupt trustee. Titles to property sold not to be impeached, unless proceedings instituted. The court, after adjudication, may order any treasurer, &c. or agent of the bankrupt, to deliver all monies, &c.

#### *244 to 249.—Transactions affected or not affected by Bankruptcy.*

244. What payments, &c. by bankrupt valid. [This is identical with the 139*th* section of the act of 1849.]

245. If any attachment, sequestration, or execution be issued against any bankrupt, by virtue whereof his estate and effects, or any of them, may be attached, sequestered, or taken in execution at any time within sixty days next before the filing of the petition, such attachment, &c. shall be void, in favour of the assignee, as against the attaching &c. creditor, except that such creditor shall, if the attachment, &c. would have been valid but for this provision, be entitled to retain out of any money already realised his costs of suit, and of the attachment, &c., or to proceed with such attachment, &c. for the purpose of realising such costs; but on satisfaction of such costs, or on tender of the amount thereof by the assignee to the creditor, it shall be lawful for the assignee to recover from such creditor the property so attached &c., or the residue thereof, or the proceeds thereof, as the case may be.

246. If any bankrupt shall have made or caused to be made any transfer of any of his goods or chattels, and the person entitled under such transfer shall not have taken possession of such goods and chattels, but shall have allowed them, or any portion of them, to remain in the possession, order, or disposition of the bankrupt, as reputed owner thereof, such transfer shall, as to such goods and chattels, or any portion of them, so in the possession and reputed ownership

of the bankrupt at the time of such petition, be deemed a secret transfer, and the said goods and chattels, or remaining portion of them, shall be deemed to be part of the estate of the bankrupt, and shall vest in his assignee under his appointment.

247. Any payment made by any bankrupt; or by any person on his behalf, and any transfer so made or caused to be made by any bankrupt, or by any person on his behalf, of any of his goods or chattels, within sixty days next before the filing of the petition, not being for a reasonable and sufficient consideration given or agreed to be given at the time, to any creditor of such bankrupt, or to any person in trust for, or to or for the use, benefit, and advantage of, such creditor, shall be deemed a fraudulent preference of such creditor, and such payment, delivery, or transfer shall not be available to the creditor as against the assignee, but he shall be paid rateably with the other creditors, and the full amount of such payment made, and the goods and chattels delivered, or their full value, shall be forthcoming to and recoverable by the assignee from such creditor.

248. Any conveyance or equitable mortgage made and executed or given by any bankrupt within sixty days next before the filing of the petition, not being for a reasonable and sufficient consideration given or agreed to be given at the time, or in pursuance of an agreement in writing made at the time, of contracting an antecedent debt, and producible under the adjudication, and the bankrupt being at the time of making and executing or granting the same unable to meet his engagements, shall be deemed a fraudulent preference of the creditor to whom, or in trust for whom, or to or for the use, benefit, or advantage of whom, such conveyance or mortgage shall have been made and executed or granted, and shall not be available to him as against the assignee; but such creditor shall be paid rateably with the other creditors, and the property conveyed or charged, or the full value thereof, shall be forthcoming to or recoverable by the assignee from such creditor, or from the person to whom the same shall, in trust for him, or to his use, benefit, or advantage, have been conveyed or mortgaged, or from any person to whom such creditor or such trustee shall have conveyed or mortgaged the same, such person having at the time of such conveyance or mortgage notice of an act of bankruptcy committed by the bankrupt.

249. *Bona fide* purchases more than a year before petition protected.

250. Certain warrants of attorney, cognovits, and consents to judge's order, given within sixty days of filing petition, to be null and void.

251. In all cases where any bankrupt shall at any time previously to the filing of the petition for adjudication of bankruptcy by or against such bankrupt have executed any warrant of attorney to confess judgment, or shall have given any cognovit actionem or bill of sale, whether for a valuable consideration or otherwise, no person shall, after the adjudication of bankruptcy of such bankrupt, avail himself of any execution or sequestration issued or to be issued upon such judgment obtained or to be obtained upon such warrant of attorney or cognovit actionem, or of such bill of sale, either by seizure and sale or sequestration of the property of such bankrupt, or any part thereof, or by sale of such property theretofore seized, or any part thereof; but any person to whom any sum or sums of money shall be due in respect of any such warrant of attorney or cognovit actionem, or of such bill of sale, shall and may prove as a creditor for the same under this act.

252. Warrants of attorney and cognovits given by any debtor to be void, unless filed within twenty-one days.

253. Judge's order obtained by consent given by any debtor defendant to be void, unless filed within twenty-one days.

254. Deeds and instruments relating to bankruptcy not liable to stamp duty. ["And no sale of any real or personal estate of any bankrupt shall be liable to any auction duty."] —

255 to 295. Creditors' assignees, when and how chosen. Joint creditor entitled to prove under separate estate for choice of assignee. Confirmation by court. Election of creditors' assignee after a previous election declared void. Security. Remuneration of creditors' assignee. Certificate of



appointment. Evidence of appointment. Removal of creditors' assignee. Electing new creditors' assignee. Appointment of official assignee as creditors' assignee. Valuations. Duties of creditors' assignee. Creditors' assignee's accounts. Personal estate and real estate to vest in assignee. Registration. Tenant's crops. Discharge from rents and covenants in conveyances, leases, &c.; proviso that creditors' assignee may elect to take for limited period. Vendor of estate in lands may compel creditors' assignee to elect. Creditors' assignee may execute powers. Bankrupt to join in conveyances. Conditional estates. Assignee may appoint bankrupt to superintend management of the estate. Bankruptcy of a member of a firm. Assignees may bring or defend actions or suits, &c. Mortgagee may bid at sale. Suits not to abate by death or removal of assignee; other provisions as to suit. Property may be mortgaged if more beneficial. Pay, half-pay, and pensions of bankrupt to be applicable for creditors. Sequestration of profits of business may be obtained. Court may determine on all differences between assignees, creditors, or parties claiming under trust deeds. Sale of book debts, &c. Remaining books and papers to be disposed of or kept as the court directs. Assignees to be subject to orders of the court.

296 to 300. Last examination.

### 301 to 329.—*Proof of Debts.*

301. Every creditor of the bankrupt may, after adjudication, prove his debt, by delivering or sending through the general post, before the appointment of the creditors' assignee, to the official assignee, and after such appointment, to the creditors' assignee, a statement of such debt, and of the account, if any, between the creditor and the bankrupt, together with a declaration, signed by the creditor, appended thereto, that such statement is a full, true, and complete statement of account between the creditor and the bankrupt, and that the debt thereby appearing to be due from the estate of the bankrupt to the creditor is justly due; and all bodies politic and public companies incorporated, or authorised to sue or bring actions, may prove by an agent, provided such agent shall in his declaration declare that he is such agent, and that he is authorised to make such proof; and such declaration, signed by such creditor and agent respectively as aforesaid, shall be in such form as General Orders shall direct.

302. False declaration a misdemeanour.

303. Every creditor of the bankrupt may also after adjudication prove his debt, by deposition in court or in chambers, or before a registrar at any meeting of creditors elsewhere than in court, or by affidavit, upon his own oath, or upon that of any clerk or other person in his employment; provided that where such deposition or affidavit shall be made by any other person than the creditor, the deponent shall, in his deposition or affidavit, set forth that he is duly authorised by his principal to make the deposition or affidavit, and that it is within his own certain knowledge that the debt was incurred, and for the consideration stated, and that to the best of his knowledge and belief the debt still remains unpaid and unsatisfied.

304 to 329. Statements to be examined by assignees. Examination of alleged creditors. Who may prove generally. Payment of assessed taxes. Proof for costs, &c. enforceable by process of contempt. Apportionment of rent. Distress not available for more than six months' rent. Articled clerks and apprentices. Officers of friendly societies and savings banks. Clerks' wages. Court may order wages not exceeding 40s. to labourer or workman. Set-off of mutual debts and credits. Proof for debts not payable at the time. Proof by sureties and persons liable for the debts of a bankrupt. Proof by obligees in bottomry or respondentia bonds. Persons effecting insurance admitted to prove loss. Proof by annuity creditor. Proof by sureties for payment of annuities granted by bankrupt. Proof in respect of debt contingent at the time of the bankruptcy. Proof for instalments. Proof in respect of liability contingent at the bankruptcy. Proof by principal against estate of bankrupt agent. Interest. Costs. Proving debt to be an election not to proceed against the bankrupt by action. Creditors having security not to receive more than other creditors. How proof may be expunged or reduced.

### *Discharge of Bankrupt.*

330 to 349. Classification of certificates abolished. Order

of discharge shall be suspended, when. Discretion of the court. When order to take effect. Effect of discharge. Release of bankrupt when arrested after discharge. As to partners. Contract after filing of petition not binding on bankrupt. Discharge from contempt. Discharge not to extend to Crown debts, &c. without consent of Treasury, nor to damages for libel, &c. Consideration given to induce creditor to forbear opposition. Obtaining money, goods, &c. as an inducement to forbear opposition, or to consent to allowance of discharge. Rehearing. If suspended on rehearing, subsequent creditors to prove first against subsequent property. Order, when to be drawn up. Appeal.

### *Audit and Dividend.*

350. No public sitting for audit.

351. Immediately on the expiration of four months from the date of the adjudication of bankruptcy, or as much earlier as, upon the representation of the assignees, the court shall appoint, the creditors' assignee shall submit to a meeting of creditors to be called for that purpose, and to be held before the registrar in chambers, of which meeting ten days' notice shall be given in the London Gazette and in two local newspapers, a statement of the whole estate of the bankrupt as then ascertained, of the property recovered, and of the property outstanding, specifying the cause of its being so outstanding, and of all the receipts, and of all payments thereout made or to be made; and the official assignee shall, and any creditor who has proved may, attend and examine such statement, and compare the receipts with the payments; and upon ascertaining what balance is then in the Bank of England to the credit of the estate, the meeting shall, by resolution, declare whether any, and what part, of the net produce of the estate, after making a reasonable deduction for future contingencies, shall be divided amongst the creditors.

352 to 358. Assignee not to keep money in his hands. Provision to be made for claims of creditors abroad, or not determined. One dividend meeting to be held for joint and separate estates. Dividend list to be prepared by assignee. Like proceedings at successive periods of four months. No action for dividends. Petitioning creditor compounding with debtor after bankruptcy.

### *Discharge of Creditors' Assignee.*

359 to 369. Creditors to pass a resolution on the conduct of the creditors' assignee, after which he may apply to the court for a discharge. Effect of discharge. Unclaimed dividends, &c. to be paid into the Bank. Official assignee to act after discharge of creditors' assignee. If assignee indebted to bankrupt's estate become bankrupt, his discharge shall not discharge his future effects. Dividend warrants to be countersigned by registrar. Unpaid dividend warrants to be filed. Unclaimed dividends. Assignees under former flats retaining unclaimed dividends, &c. Official assignees not filing certificate of unclaimed dividends where to be paid.

### *Allowance to the Bankrupt.*

370 to 377. For maintenance after discharge. One partner may receive allowance, although other partner not entitled. Payment of surplus to bankrupt. Excepted articles. Inventory and valuation of the remainder of the bankrupt's household furniture; temporary use of, by him. If entitled to any allowance, furniture, &c. to be taken in lieu.

### 378 to 380.—*Estates Tail and Base Fees.*

381. The court shall have power to dispose, for the benefit of the creditors, of any estate or interest, at law or in equity, which, at the time of adjudication or afterwards, before order of discharge, a bankrupt has in any copyhold or customary land, and to make an order vesting the land, or such estate or interest as the bankrupt has therein, in such person and in such manner as the court shall think fit.

382. Where the bankrupt's estate or interest is an estate or interest in equity only, the same shall vest by force of and according to the order, without other assurance.

383. Where the bankrupt's estate or interest is not an estate or interest in equity only, the order shall be entered on the court rolls of the manor of which the land is parcel, (which entry the lord, or his steward or steward's deputy, shall be bound to make), and shall be equivalent to a surrender of the same land, and, if made with the consent of the lord, shall be equivalent to both surrender and admittance.

384. Stamp duty on vesting order.

### 385 to 392.—*As to Change from Bankruptcy to Arrangement.*

385. At the meeting of creditors for the choice of an assignee, or at any meeting to be called for the purpose, and of which ten days' notice shall have been given in the London Gazette and in two local newspapers, a majority of three-fourths in number and value of the creditors present or represented at such meeting may resolve that the estate ought to be wound up under a deed of arrangement, and that an application shall be made to the court to stay proceedings in the bankruptcy for a period not exceeding two months, and on such resolution being passed, it shall not be necessary to elect an assignee. Resolution to be reported to the court.

387. If the proceedings in bankruptcy be stayed, as herein provided, the bankrupt, or any creditor nominated in that behalf by the meeting aforesaid, may, at any time within the period during which the proceedings are so stayed, produce to the court a deed of arrangement, signed by or on behalf of three-fourths in number and value of the creditors of the bankrupt; and the court may consider the same, and may examine on oath the bankrupt and any of the creditors who may desire to be heard in support of or in opposition to the deed, and may make such other inquiry as it may think necessary; and if the court shall be satisfied that the deed has been duly entered into and executed, and that its terms are reasonable, and calculated to benefit the general body of the creditors under the estate, it may, by order, make a declaration of the complete execution of the deed, and annul the bankruptcy; and such deed shall thereafter be as binding in all respects on any creditor who has not executed the deed as if he had executed it.

388. Either before or after such order the court shall have jurisdiction to entertain any application of the bankrupt, or of any party to the deed, or of any creditor or person claiming to be a creditor, respecting the disclosure, distribution, inspection, conduct, management, or winding up of the bankrupt's estate and affairs, or any act or thing relating thereto, or respecting the execution of any of the trusts or provisions of the deed, or the audit or examination of the accounts of a trustee or inspector, or the taxation or examination of the costs or charges of any attorney, solicitor, accountant, auctioneer, broker, or other person acting or employed under the deed, or generally for the decision of any dispute or question, and shall also have jurisdiction to entertain any application of any such person as aforesaid, respecting any matter for the submission whereof to the court provision is made by the deed, or any matter arising between any of the said persons, and any other person appearing and submitting to the jurisdiction of the court. Questions to be decided according to the law of bankruptcy. Power of the court to summon and examine. Where bankruptcy to be continued, or to be resumed.

### 393 to 400.—*Trust Deeds for Benefit of Creditors, &c.*

393. Every deed or instrument made or entered into between a debtor and his creditors, or any of them, or a trustee on their behalf, relating to the debts or liabilities of the debtor, and his release therefrom, and the distribution, management, and winding-up of his estate, or any of such matters, shall be as valid and effectual and binding on all the creditors of such debtor as if they were parties to and had duly executed the same, provided the following conditions be observed; that is to say—

- (1). Three-fourths in number and value of the creditors of such debtor, whose debts shall respectively amount to 10*l.* and upwards, shall in writing assent to or approve of such deed or instrument within seven days from and after the execution thereof by such debtor:
- (2). If a trustee or trustees be appointed by such deed or instrument, such trustee or trustees shall execute the same within seven days after the day of the debtor's execution thereof:
- (3). The execution of such deed or instrument by the debtor and every trustee shall be attested by an attorney or solicitor:
- (4). Within fourteen days from the day of the execution of such deed or instrument by the debtor, the same shall be produced and left (having been first duly stamped) at the office of the chief registrar, for the purpose of being registered:
- (5). An affidavit by the debtor that three-fourths in

number and value of the creditors of the debtor, whose debts amount to 10*l.* and upwards, did in writing assent to or approve of such deed or instrument within seven days from and after the execution thereof by such debtor, and that such assent was fairly given or obtained, and without collusion or fraudulent concert with any creditor, shall, at the same time that such deed or instrument is produced and left for registration, be delivered to the registrar, who shall duly file the same.

394. No deed, instrument, or agreement, by which a debtor conveys, or covenants or agrees to convey, his estate and effects, or the principal part thereof, for the benefit of the creditors, or makes any arrangement or agreement with his creditors, or any person on their behalf, touching the distribution, inspection, conduct, management, or winding-up of his affairs or estate, and the release or discharge of such debtor from debts or liabilities, shall be valid, or good in law, unless the same shall, within fourteen days from and after the execution thereof by such debtor, be registered in the Court of Bankruptcy in manner herein directed. Particulars of deed to be entered by the chief registrar, and published in the Gazette.

396. No deed or instrument required to be registered as aforesaid shall be registered unless a stamp duty shall have been first duly impressed or affixed thereon, computed according to the following rule; that is to say, if the estate and effects to be collected, administered, or distributed under such deed shall be sworn not to exceed the sum of 1000*l.*, a duty of 5*l.*; if such estate and effects shall be sworn not to exceed the sum of 3000*l.*, a duty of 10*l.*; if such estate and effects shall be certified to be above the value of 3000*l.*, or if no statement shall be made touching the value thereof, then the duty shall be 15*l.*

397. Memorandum of registration to be indorsed. Sects. 393 to 397 not to apply to deeds executed under sects. 385, 386, and 387.

398. From and after the registration of every such deed or instrument in manner aforesaid, the debtor and creditors, and trustees, parties to such deed, or who have assented thereto or are bound thereby, shall in all matters relating to the estate and effects of such debtor be subject to the jurisdiction of the Court of Bankruptcy, and shall respectively have the benefit of and be liable to all the provisions of this act, in the same or like manner as if the debtor had been adjudged a bankrupt, and the creditors had proved, and the trustees had been appointed creditors' assignees under such bankruptcy; and the existing or future trustees of any such deed or instrument, and the creditors under the same, shall, as between themselves respectively, and as between themselves and the debtor, and against third persons, have the same powers, rights, and remedies, with respect to the debtor and his estate and effects, and the collection and recovery of the same, as are possessed or may be used or exercised by assignees or creditors with respect to the bankrupt, or his acts, estate, and effects in bankruptcy.

399. After notice of the filing and registration of such deed has been given as aforesaid, no execution, sequestration, or other process against the debtor's property in respect of any debt, and no process against his person in respect of any debt, other than such process by writ or warrant as may be had against a debtor about to depart out of England, shall be available to any creditor or claimant, without leave of the court; and a certificate of the filing and registration of such deed, under the hand of the chief registrar and the seal of the court, shall be available to the debtor for all purposes as a protection in bankruptcy.

400. Stay of proceedings in bankruptcy pending the seven days. (See sect. 393).

401. If a debtor cannot obtain the assent of three-fourths in value of his creditors, by reason of his being unable to ascertain by whom bills of exchange accepted by him are holden, or by reason of the absence of creditors in a foreign country, or other similar circumstances, it shall be sufficient if he obtain the consent of three-fourths of all his other creditors to such deed or instrument as aforesaid; provided that in such case the deed or instrument be in such form as is expressed in Schedule (H.) to this act annexed, which shall vest all the estate and effects of the debtor in the trustees of such deed, and provided that all such other conditions as are hereinbefore required be duly complied with.

402 to 441.—*Petitions for Arrangement between Debtors and their Creditors under the Control and Superintendence of the Court.*

Debtor in custody for offence under act, or who has before petitioned within five years, not to petition. Official assignee. Law of bankruptcy to apply. All executions, &c. stayed. If proceedings in bankruptcy instituted, court to deal with the two proceedings. First meeting of creditors. Schedule of debts. Amendment of schedule. Notice to creditors by official assignee. Meeting of creditors. Debts may be proved at meetings. If three-fourths assent, second meeting to be appointed. Second meeting. Arranging debtor to attend official assignee. Joint creditors. Fraudulent concert void. Affidavit by petitioner. Resolution may provide for management of the estate. Assignees to be subject to the court as in bankruptcy. Court to have jurisdiction as in bankruptcy. Proceedings to be similar to those in bankruptcy. Protection to petitioner. Notice. Majority of creditors to act for creditors. Trustee to be appointed. Court may reject him. Remuneration of trustees. Official assignee may be trustee. Property to vest if so provided. New trustee. Reference of questions to the court. Concurrence of creditors. Court may examine on oath. Power to seize property, &c. Arrangement may be altered. Death of arranging debtor.

442 to 450. Discharge of arranging creditor. Discharge of trustee. Petition not to be withdrawn, but may be dismissed. On dismissal, order as to vesting &c. may be made. If petition dismissed, filing of it an act of bankruptcy. Validity of proceedings where petition dismissed. When petition converted into bankruptcy.

451 to 474.—*Distribution of the Estates of deceased Debtors in certain Cases.*

Creditors of deceased debtor, who has committed an act of bankruptcy within three months before his decease, may petition the Court of Bankruptcy for distribution of the estate of the deceased. Proof on which order for distribution is to be made. Order to issue if probable solvency is not established. Court may summon witnesses. Executor or administrator of deceased debtor may petition for order for distribution. Reservation of jurisdiction of Court of Chancery. Court may issue warrant to secure the property of the deceased in certain cases. Notices. Court need not appoint official assignee in certain cases. Priority of funeral and testamentary expenses preserved. Saving of certain rights of executor. In case deceased debtor had committed an act of bankruptcy within three months, creditors to have the same rights as regards goods in debtor's reputed ownership, estates tail, base fees, powers, and giving up leaseholds, &c., as in bankruptcy. Saving of acts done bona fide, in due course of administration, before petition. Creditors paid in full before filing of petition to refund rateably in case of deficiency of assets. Court to have powers of the Court of Chancery. Provisions as to arrangement and composition after adjudication of bankruptcy to apply after order for distribution.

475, 476. Bankruptcy of persons of unsound mind.

477. Notices to be sent by post.

478. Advertisements.

479 to 485.—*Meetings.*

Creditors' assignee or inspector may call meeting of creditors. Notices. Questions to be decided by majority. Proxies. Creditors to vote according to balances due to them. Creditors under 10*l.* to be reckoned in value, not in number. Court may make declaration of such majority having acted.

486 to 507.—*Evidence.*

Inspection and copies of proceedings. Gazette to be evidence of bankruptcy. No proof of petitioning creditor's debt, &c., in certain actions and suits, &c., unless notice be given that those matters are to be disputed. Judicial notice to be taken of signature of judge or registrar and of the seal of the court. Forging signature or seal. Advertisements, when evidence. Inserting advertisements without authority. Adjudication, appointment of assignees, &c., conclusive. Certificates of trustees, &c. under arrangement to be conclusive. Provisions of the 6 & 7 Vict. c. 85, to be applicable to any matter in prosecution under this act. Evidence of declaration of insolvency. Evidence as to insolvency abroad. Death of witness. Notice of acts of bankruptcy to agents of corporate bodies. Affidavits. The courts in England to be auxiliary

for the purpose of taking affidavits. Fees. Affidavit of prisoner. Bankrupt and bankrupt's wife to be examined upon declaration and oath.

508. Solicitors.

509. Misconduct.

510, 511. Costs. Witnesses and persons known or suspected to have bankrupt's property, &c., entitled to costs, &c. 512. Stat. 1 & 2 Vict. c. 110, s. 18, to be applicable.

513 to 519.—*Powers of the Court in aid of the Court of Chancery.*

Commissioners, &c. to be officers of the Court of Chancery. Lord Chancellor, &c. to make General Rules for certain purposes, viz. for enabling the Court of Chancery to send accounts and inquiries to commissioners of the Court of Bankruptcy; for taking down evidence, &c.; for authorising commissioners and registrars of the Court of Bankruptcy to administer oaths and take pleas, answers, &c.; for enabling the said commissioners to examine witnesses; for providing for the authentication and transmission of pleas, examinations, &c. Under orders of reference, commissioners to have same powers, &c. as Masters in Chancery.

520 to 525. Courts in Scotland and Ireland to be auxiliary. Courts to be auxiliary to courts in Scotland and elsewhere. Transfer of English cases from Scotland.

526 to 534.—*Misdemeanours under this Act.*

Misdemeanours. Power of judge and commissioners. Court may appoint prosecutor. Costs. Reference to Attorney-General. Formal indictment. Persons disobeying order of court. Gaoler suffering persons committed to escape &c. Application of forfeitures.

535. Definition of terms, &c.

536. Repeal of acts.

place, New North-road, Hoxton, Middlesex, boarding-house keeper, April 5 at half-past 11, London, ch. ass.—*B. Green*, Fillingham, Lincolnshire, corn dealer, April 18 at 12, Kingston-upon-Hull, ch. ass.—*T. Garside*, Ashton-under-Lyne, Lancashire, licensed victualler, April 27 at 12, Manchester, aud. ac.; May 3 at 12, div.—*J. Lorimer*, Rochdale, Lancashire, grocer, April 27 at 12, Manchester, aud. ac.; May 3 at 1, div.—*J. Buxton*, Spotland, Rochdale, cotton spinner, April 27 at 12, Manchester, aud. ac.; May 4 at 12, div.—*Thos. Hancock*, Hereford, timber merchant, April 23 at 11, Birmingham, aud. ac.—*Jas. Morison and Lars Oscar Abelin*, Liverpool, shipchangers, April 13 at 11, Liverpool, aud. ac.—*Henry Wilson*, Liverpool, merchant, April 16 at 11, Liverpool, aud. ac.; April 17 at 11, div.—*William Crompton*, Kingston-upon-Hull, licensed victualler, April 25 at 12, Kingston-upon-Hull, aud. ac. and div.—*James Key*, Great Prescott-street, Goodman's-fields, Middlesex, oilman, April 18 at half-past 1, London, div.—*William Reade and Geo. Reade*, London-bridge, Southwark, Surrey, provision merchants, April 18 at half-past 12, London, div. joint and sep. ests.—*Edward Harris*, Folkestone, Kent, tailor, April 18 at half-past 11, London, div.—*Eugene Duval*, New Bond-st., Middlesex, milliner, April 18 at 1, London, div.—*Thomas Hawley*, Blackfriars-road, Surrey, and Clement's-inn-passage, Strand; King's-road, Chelsea; and Crawford-street, Marylebone, Middlesex, grocer, April 18 at 1, London, div.—*George Frederick Cobham*, Milton-next-Gravesend, Kent, carpenter, April 18 at 12, London, div.—*Wm. Henry Elliott*, Cheap-side, City, clothier, April 18 at half-past 12, London, div.—*William Mayes*, Birmingham, grocer, April 23 at 11, Birmingham, div.—*Edward Emerson Farnock*, Newcastle-upon-Tyne, wine merchant, April 20 at 12, Newcastle-upon-Tyne, fin. div.—*John Bryant*, Newport, Monmouthshire, coal merchant, April 26 at 11, Bristol, first and fin. div.

# CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

*James Kevie*, Old-street, St. Luke's, Middlesex, licensed victualler, April 19 at 2, London.—*Thomas Francis*, Cross-road, Islington, Middlesex, plasterer, April 18 at 2, London.—*Charles Robert Monte*, Old Broad-street, City, metal broker, April 18 at 1, London.—*Stephen Lampard*, Portsea, Hampshire, plumber, April 18 at half-past 12, London.

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## GAZETTES.—FRIDAY, March 30.

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## MEETINGS.

*James Guest*, Manchester, cotton spinner, April 12 at 12, Manchester, ch. ass.—*Alfred Charles Ayres*, Ramsgate, Kent, surgeon, April 11 at 2, London, last ex.—*Chas. Jones* the younger, Margaret-street, Cavendish-square, and Great Castle-street, Regent-st., Middlesex, coach builder, April 11 at 12, London, last ex.—*Thomas Nicholson*, Sunderland, Durham, nail merchant, April 11 at 12, Newcastle-upon-Tyne, last ex.—*Thomas Streeter*, Portsmouth, Hampshire, hotel keeper, April 13 at 12, London, aud. ac.—*J. Easton*, Clapham-road-place, Clapham-road, Surrey, builder, April 12 at 11, London, aud. ac.—*Robert Anderson Runt*, Great Marlborough-street, Regent-street, Middlesex, pianoforte manufacturer, April 12 at 11, London, aud. ac.—*John Jeyes*, Northampton, nurseryman, April 11 at half-past 11, London, aud. ac.—*David Sillar* and *John Charles Sillar*, Liverpool, Lancashire, and Shanghai, China, merchants, April 20 at 11, Liverpool, aud. ac.—*John Merson* and *T. Breck Ingham*, St. Helen's, Lancashire, glass manufacturers, April 12 at 11, Liverpool, aud. ac.; April 27 at 11, div. sep. est. of *John Merson*.—*John Webster*, Wavertree, near Liverpool, joiner, April 13 at 12, Liverpool, aud. ac.—*James Morison* and

*Lars Oscar Abelin*, Liverpool, shipchandlers, April 12 at 11, Liverpool, aud. ac. sep. est. of *James Morison*; April 20 at 11, div. joint est.—*John Humphreys Tolley*, Hindley, Lancashire, brewer, April 17 at 12, Manchester, aud. ac.; April 24 at 12, div.—*Francis Norbury*, Ardwick, Manchester, bailder, April 30 at 12, Manchester, aud. ac.—*George James Reid*, Manchester, merchant, May 4 at 12, Manchester, aud. ac.; May 10 at 12, div.—*William Lancaster*, Bury, Lancashire, coal merchant, April 26 at 12, Manchester, aud. ac.; April 27 at 12, div.—*Joseph Holden*, Bolton, Lancashire, painter, April 20 at 12, Manchester, aud. ac.; April 20 at 12, div.—*Jos. Chapman*, Scarborough, Yorkshire, china dealer, May 7 at 11, Leeds, aud. ac. and div.—*Edmond Gibson*, Brooks-mews, Brook-street, Gloucester-place, Hyde-park-gardens, Middlesex, livery-stable keeper, April 20 at half-past 1, London, div.—*James Wycherley*, Adderbury, Oxfordshire, maltster, April 20 at 11, London, div.—*Arthur Fisher*, Wilford, Nottinghamshire, out of business, April 26 at 11, Nottingham, aud. ac. and div.—*David Imrie*, Belfast, Antrim, Ireland, and Manchester, merchant, April 24 at 12, Manchester, fin. div.—*Roeland Parkinson*, Blackburn, Lancashire, innkeeper, May 4 at 12, Manchester, div.—*Isaac Firth*, Manchester, victualler, April 26 at 12, Manchester, div.—*John Smith*, Morton Mills, near Bingley, Yorkshire, paper manufacturer, April 20 at 11, Leeds, div.—*Joseph Gauthorpe*, Horbury Bridge, near Wakefield, Yorkshire, cloth miller, April 20 at 11, Leeds, div.—*Uriah Wimpenny*, Holmes Bridge, Almondsbury, Yorkshire, woollen-cloth manufacturer, April 20 at 11, Leeds, div.

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THE JURIST.

LONDON, APRIL 7, 1860.

IN a country like Great Britain, with dominions and colonies in every quarter of the globe, having continual intercourse, political and commercial, with all nations upon the earth, one would have imagined that few subjects would have been more interesting than international law, whether arising from those principles of justice which all civilised nations, as a species of common law, have in process of time admitted to be binding upon them, or from compacts or conventions in which such principles have been either expressly incorporated, partially modified, or entirely abrogated, in order to meet with the varying circumstances of time, place, or policy.

Contrary to what our expectations would be, the knowledge of international law is in this country confined to a few; nor is it possessed in an adequate degree even by those who, from their position, take a considerable share in our legislation, and in regulating our relations with other countries. There seems, indeed, to be rather more than a tendency, on the part of our leading statesmen, as far as possible to manage all questions affecting our relations with other countries, in their own small coteries, insinuating, if not asserting, that they cannot be properly conducted if ventilated among the profane vulgar, who, by its prying curiosity and annoying interpellations, would destroy that mysterious secrecy which they would lead us to believe is essential to diplomatic success.

A knowledge, however, of international law is, in our opinion, a necessary element, not only in the education of what we term civilians and of diplomatists, but of every member of the Bar who aspires to reach its highest ranks, and of every Englishman who would

wish either to take any part in governing the country, or to influence those who do.

Formerly international law was supposed to be, and perhaps was, studied exclusively at Doctors' Commons; but whatever light the learned civilians may have had upon the subject they seem carefully to have kept under their own bushel, and to have confined its rays within the narrow precincts of the close college at the foot of St. Paul's.

When any difficult point of international law arose, the solution of which involved, perhaps, the issues of peace and war, an oracle was sought from Doctors' Commons. It is true, the law officers of the Crown were not disregarded; their opinions were received for as much as they were worth—perhaps for more. What, however, could in general either of such officers do—mere practitioners in courts of law or equity, who, perhaps, before accepting office, never in their lives read a line in any work upon international law—ignorant, perhaps, even of its very nomenclature? What would their opinion be worth? It would in all probability be a mere servile imitation of a document from Doctors' Commons, or be founded upon a hasty consideration of authorities seen for the first time, and upon principles purely imaginary, inviting the ready criticism of European and Transatlantic publicists.

Take, again, our diplomatists; would they less ably represent our country were they more deeply versed in the principles and history of international law? Should not an accurate knowledge of both be insisted upon as essential in those who represent us abroad? Should not an ambassador be considered as a person delegated to a foreign land to maintain the rights and real interests of his country, and not merely for the purpose of repairing his own broken fortune, or dispensing elegant hospitalities to the habitués of his own and each foreign court?



Look, again, at the debates in Parliament. Too often—say, and in the case of men of considerable mark—it is easily seen that the study of international law has formed no part of their education, and that they feel perfectly satisfied if, when the occasion arises, they are able to hit upon some passage of Grotius, Vattel, or Wheaton in support of the particular views they may happen to advocate.

But Doctors' Commons was the stronghold of the learning of international law. How, then, will the knowledge of it now be kept up? How and where will it be studied, when the College of Advocates has, in effect, been dissolved, and its members are merged in the Bar of England? We think that the Inns of Court would do well if they instituted another readership, the duty of the holder of which would be to deliver Lectures on the Principles and History of International Law. We would particularly call this subject to the attention of the Attorney-General, and those of the Benchers who, notwithstanding the opposition of their less enlightened colleagues, have, by their unceasing efforts for many years, done so much to promote the study of the law, and who have already raised the Inns of Court from the position of mere eating-houses or clubs (not bad ones, by the bye, so far as Benchers are concerned) to somewhat of the dignity of a Legal University.

Much, however, remains to be done. The Inns of Court, even in their present semi-reformed state, are far from holding the position which they ought to do; nor can Lord Coke's description of them in former days be truly applied to them now, that "all together they make the most famous University for profession of the law only, or of any one human science that is in the world, and advanceth itself above all others, quantum inter viburna cupressus."

A great step would, we think, be gained by those who wish to raise the Inns of Court to the dignity of the Legal University described by Lord Coke, if there was added to the domain of its studies such an important subject as international law. The Inns of Court might then be resorted to by men wishing to qualify themselves for the position of diplomatists or statesmen; and the wider range of knowledge which members of the Bar, intending to addict themselves to particular branches of the law, might acquire, would not render them less fit for the specialties of their Profession, whether as equity draftsmen, pleaders, or conveyancers; while it would, at the same time, be of most essential use to those of them who in after times might attain to the highest ranks, and become the advisers of the Crown or the administrators of justice.

THE question, whether confessions made to Roman Catholic priests are privileged from disclosure in a court of justice, has been again mooted. On this occasion the priest was committed to prison by Mr. Justice Hill for refusing to state from whom he had received certain stolen property, which he had delivered up to a policeman the day after the robbery. The ground of his refusal was, that the property had come into his possession in the course of the exercise of his duties in the confessional. The matter has been

brought before Parliament, and will probably be discussed there in all its bearings. In the meantime our readers may be willing to read what has been written upon the subject by Mr. Best in his *Principles of the Law of Evidence*. The following extract is from p. 690 of the second edition of his valuable book:—

"Whether communications made to clergymen by persons applying for spiritual advice are or should be protected from disclosure in courts of justice presents a question of some difficulty. It is commonly thought that the decisions of the judges in the cases of *Res v. Gilham* (1 Moo. C. C. 186) and *Res v. Wild* (Id. 452), added to some others that will be cited presently, have determined it in the negative, and the practice is in accordance with that notion. But the former of these cases only shews that a confession of guilt made by a prisoner to the world or a magistrate, in consequence of the spiritual exhortations of a clergyman that it will be for his soul's health to do so, is receivable in evidence against him—a decision perfectly well founded, because such exhortations cannot possibly be considered illegal 'inducements to confess.' By this expression, as shewn in a former chapter, the law means language calculated to convey to the mind of a person suspected of an offence, that by confessing he will better his position with reference to the temporal consequences of that offence. And the ground on which a confession made after such an inducement to confess is rejected is the reasonable apprehension that in consequence of it the party may have made a false acknowledgment of guilt—an argument wholly inapplicable where he is only told that a spiritual benefit is to be derived from telling the truth. The case of *Res v. Wild* is even less to the purpose, as the party who used the exhortation there neither was, nor professed to be, a clergyman, and, wholly unsolicited, thrust it on the prisoner. The other cases to which allusion has been made are, an anonymous one in *Skinner*, 404; *Res v. Sparkes*, cited in *Du Barré v. Livette*, (1 Peake, 77); *Buller v. Moore*, (M'Nally's Ev. 253); and *Wilson v. Rastall*, (4 T. R. 753). In the first the question was respecting a confidential communication to a man of law, which Lord Chief Justice Holt, as might have been expected, held privileged from disclosure, adding, obiter, that 'it was otherwise in the case of a gentleman, parson, &c. The second and third are decisions, one by Buller, J., on circuit, and the other by the Irish Master of the Rolls in 1802, that confessions to a Protestant and Roman Catholic clergyman respectively are not privileged; and in the fourth, the judges in banc say, obiter, that the privilege is confined to the cases of counsel, solicitor, and attorney. How far a particular form of religious belief being disfavoured by law at the period affected the latter of those decisions is not easy to say, but both of them leave the general question untouched; and on *Res v. Sparkes* being cited to Lord Kenyon in *Du Barré v. Livette*, (1 Peake, 77), he said, 'I should have paused before I admitted the evidence there admitted.' He, however, decided that case on the ground that confidential communications to a legal adviser were distinguishable from others. It is also to be observed that the subject coming incidentally before Best, C. J., in *Broad v. Pitt*, (3 Car. & P. 519), very shortly after *Res v. Gilham*, he referred to that case as deciding that the privilege in question did not apply to a clergyman, but added, 'I for one will never compel a clergyman to disclose communications made to him by a prisoner; but if he chooses to disclose them, I shall receive them in evidence.'

"There cannot, we apprehend, be much doubt, that previous to the Reformation statements made to a priest under the seal of confession were privileged from disclosure, except, perhaps, when the matter thus communicated amounted to high treason. In the old

laws of Henry I (*Leges, Hen. 1, c. 5, s. 17*) is this passage:—“*Caveat sacerdos ne de hiis qui ei confitentur peccata sua alicui recitet quod ei confessus est, non propinquis nec extraneis; quod si fecerit, deponatur, et omnibus diebus vite sue ignominiosus peregrinando peniteat.*” The laws of Henry I are of course not binding per se, and are only valuable as guides to the common law; but it is otherwise with the statute *Articuli Cleri*, (9 Edw. 2, c. 10), which is as follows\*:—“*Quandoque aliqui confugientes ad ecclesiam . . . dum sunt in ecclesia custodiuntur per armatos infra cimiterium, et quandoque infra ecclesiam, ita arte quod non possunt exire locum sacrum causâ superflui ponderis deponendi, nec permittitur eis necessaria victui ministrari. Responsio: . . . dum sunt in ecclesia, custodes eorum non debent morari infra cimiterium, nisi necessitas vel evasionis periculum hoc requirat. Nec arcetur confugi dum sunt in ecclesia, quin possint habere vite necessaria, et exire libere pro obsceno pondere deponendo. Placet etiam Domino Regi ut latrones appellatores, quandocumque voluerint, possint sacerdotibus sua facinora confiteri; set caveant confessores ne erronee hujusmodi appellatores informant.*” In commenting on this statute, Sir Edward Coke, writing, he it remembered, after the Reformation, expresses himself as follows, (2 Inst. 629):—“*Latrones vel appellatores. This branch extendeth only to thieves and approvers indicted of felony, but extendeth not to high treasons: for if high treason be discovered to the confessor, he ought to discover it, for the danger that thereupon dependeth to the king and the whole realm; therefore this branch declareth the common law, that the privilege of confession extendeth only to felonies. And albeit, if a man indicted of felony becometh an approver, he is sworn to discover all felonies and treasons, yet is he not in degree of an approver in law, but only of the offence whereof he is indicted; and for the rest, it is for the benefit of the king, to move him to mercy; so as this branch beginneth with thieves, extendeth only to approvers of thievery or felony, and not to appeals of treason; for by the common law a man indicted of high treason could not have the benefit of clergy, (as it was holden in the king's time, when this act was made), nor any clergyman privilege of confession to conceal high treason; and so it was resolved in 7 Hen. 5, (Rot. Parl. anno 7 Hen. 5, nu. 13); whereupon friar John Randolph, the Queen Dowager's confessor, accused her of treason for compassing of the death of the king. And so was it resolved in the case of Henry Garnet, (Hil. T., 3 Jac.), superior of the Jesuits in England, who would have shadowed his treason under the privilege of confession, &c.; and albeit this act extendeth to felonies only, as hath been said, yet the caveat given to the confessors is observable ne erronee informant.*” This passage has been cited to prove the common law on this subject; but we much doubt whether the caveat at the end of the above enactment was inserted to warn the confessor against disclosing the secrets of the penitent to others. The grammatical construction and context seem to shew that it was to prevent his abusing his privilege of access to the criminal by conveying information to him from without, and the clause is translated accordingly in the best editions of the statutes.

“If the refusing to hold spiritual communications sacred is an error, an opposite and greater one is the attempt to confine the privilege to the clergy of some particular creed. Courts of municipal law are not

called on to determine the truth or merits of the religious persuasion to which a party belongs, or to inquire whether it exacts auricular confession, advises, encourages, or permits it—the sole question for them ought to be, whether the party who bona fide seeks for spiritual advice should be allowed it freely. By a statute of New York, (1 Greenl. Ev., s. 247, note), ‘No minister of the gospel, or priest of any denomination whatsoever, shall be allowed to disclose any confessions made to him in his professional character in the course of discipline enjoined by the rules or practice of such denomination.’ A similar statute exists in Missouri, and the like principle is recognised in France.”

The repugnance of clergymen to disclose that which has been confided to them by the penitent can be well understood, and is entitled to sincere respect, and, regarding the question as one of principle, we think that they ought not to be compelled to make such disclosure, unless it can be shewn that disadvantage will accrue in the administration of justice, outweighing the advantages of holding the communication to be privileged. Perhaps, in this view, it may be worthy of consideration how far the granting of absolution, upon confession, repentance, and the making of such restitution as is in the power of the offender, tends to impede the detection of crime, by quieting his conscience, and allaying his fears of spiritual consequences. Is he as subject to remorse as the unabsolved? Is it as probable that he will, under the pangs of self-accusation and the sense of sin, be led to do or say that which may lead to the detection of himself and his co-offenders, as if he had never had the balm of absolution poured upon his wounds?

## Correspondence.

TO THE EDITOR OF “THE JURIST.”

SIR,—In the late case of *Underhill v. Longridge*, in the Queen's Bench, (6 Jur., N. S., part 1, p. 221), it appeared as if some words were accidentally omitted from the 9th section of the 18 & 19 Vict. c. 108, and the Chief Justice adjourned the case in order that the Parliament roll might be examined.

It is to be inferred from this that the Court and counsel were not aware that since 1849 the original acts have all been printed, and the copies sold by the Queen's printers are struck off from the very same types, so that there is no longer any possibility of a discrepancy between the Parliament roll and the copies supplied to the public. M. I. B.

TO THE EDITOR OF “THE JURIST.”

SIR,—In the case of *Dunncliffe and Another v. Mallet* (6 Jur., N. S., part 1, p. 252; 29 L. J., C. P., 70) the Court of Common Pleas decided, that where a patent had been taken out for an invention of “improvements in lace and other weavings,” and the patent, so far as it related to one of such improvements, had been assigned, the assignee could sue in his own name for an infringement of the part of the patent assigned to him.

The proposition appears a startling one. Surely the monopoly granted to the patentee is one entire thing. Even though the patent includes several inventions, it does not create several monopolies\*.

\* The above version of the statute is taken from the valuable work intitled ‘Statutes of the Realm, printed by command of his Majesty King George III, in pursuance of an address of the House of Commons, from original Records and authentic Manuscripts,’ and differs in several respects from that given by Sir E. Coke in his 2nd Institute.”

\* Compare *Branton v. Hawkes*, (4 B. & Al. 543); *HMU v. Thompson*, (8 Taunt. 375); and *Morgan v. Seaward*, (2 M. & W. 544).

Independently of the letters-patent, an inventor has no sole property in his invention. He may exercise it freely, and keep it to himself if he can, but he has no natural right to appropriate any part of the field of invention to himself, so as to impede the free exercise of the ingenuity and labour of any one else who may afterwards discover the same art which he himself has invented. The interest which the patent gives him is not, strictly speaking, a property in anything, but rather a power or contingent right of action, which is made assignable by the grant. Its nature was well explained in an article in 7 Jur., part 1, p. 252, though it is not necessary to follow the author to the conclusion he seeks to draw. He says, letters-patent "do not purport to vest in the patentee any estate or property either in the invention or in the letters-patent, except in so far as they may vest in him the property of the parchment and seal as a chattel; but they purport merely to grant him a power. The words of the grant are, 'our especial license, full power, sole privilege, and authority, that he, the grantee, his heirs and assigns, and no others, shall make, use, exercise, and vend his invention.' The granting part really grants nothing that the grantee would not have without the grant. The grant to him is of the privilege of making and using his own invention—a privilege which he clearly has at common law, without any grant from the Crown. The really operative words which give the only valuable right or an exclusive privilege are the words 'and no others.' In fact, the letters-patent operate, in reality, not by way of grant to the patentee to do anything which he might not do before, but by way of restriction on the rest of the Queen's subjects, restricting them from doing what without the letters-patent they might lawfully do as well as the patentee. At most, letters-patent confer a power, and not any legal estate, strictly speaking, in anything except in the parchment of the letters-patent. This view is, indeed, supported by the practice of conveyancers in assignments of letters-patent, the form of which differs materially from that of an assignment of any personal property in which there is distinctly and strictly an estate—as, for instance, leasehold premises. In assigning leasehold premises, the land, or house, or other premises constituting the subject-matter of the estate for years, are assigned, and the estate of the assignor is assigned; and it is this assignment which passes the interest. The indenture of lease is, it is true, assigned also; not, however, for the purpose of passing any estate, but merely as a muniment or evidence of title. But in an assignment of a patent it is otherwise. There the operative words of the assignment never purport to pass any estate in anything. They are so framed as to pass the letters-patent—that is, the instrument of grant, and the property therein, and the license, powers, and privileges thereby granted; which shews, that though the assignment of patents is of every day's practice, no idea has been entertained that any estate, except the chattel interest in the parchment, passes by such assignment. If this be so, then an assignment of such letters-patent is really nothing but an assignment of a power."

The right, whatever it may be, is granted to the patentee, to hold to him, his executors, administrators, and assigns. The word "assigns" has a well-known legal meaning, and, looking at the language of letters-patent, it seems clear, that while they empower the patentee to license others, whom he may "agree with," to use the invention, the powers are only to be held to him and his assigns. As the right under the letters-patent is a chose in action not assignable at common law, no one can take a legal interest in the letters-patent except in strict pursuance of the terms of the grant by the Crown.

No person can become *legally* interested in the letters-

patent unless the powers become vested in him by assignment, or as executor or administrator of the patentee, however large his beneficial interest may be in the inventions which are the subject of the patent. In *Protheroe v. May* (5 M. & W. 675) it was held that a license is no part of the patent, and that there is no distinction between an exclusive license to exercise the invention throughout the whole district covered by the patent, during the whole duration of the patent, and an ordinary license; and therefore that an assignment of such a license to more than twelve persons would not invalidate the patent under the condition which was formerly inserted in letters-patent.

A beneficial interest in one of the inventions, in respect of which the letters-patent are granted, is therefore clearly not enough to entitle the party so interested to sue an infringer in respect of damage to such interest.

The power or right of action created by letters-patent is not divisible by the act of the patentee. It falls directly within the rule to be deduced from the several instances referred to in Co. Litt. 164. b.; *Hawkins v. Cardee*, (1 Salk. 85); Vin. Ab., "Apportionment," A.; and *Brooks v. Byam*, (2 Story's Rep. 525); namely, that choses in action and incorporeal rights are not divisible where the charge or liability of the party burdened would be increased by the division.

If the principal case is rightly decided, a weaver who put in practice the "improvements in lace and other weavings" would be subjected to several actions by the assignees of the several parts of the patent—an amount of vexation which neither the Legislature in passing the statute, nor the Crown by the language of the letters-patent, would appear to have contemplated; while it is difficult to see how he could enforce the correlative remedy, by *scire facias* to repeal the patent, against the assignees of the part of the patent, referring to one only of several inventions specified.

Upon principle, therefore, it would seem that a person who has a grant from the patentee of the sole right to exercise one of several inventions, in respect of which letters-patent are granted, has no such interest as to enable him to maintain a separate action in his own name.

There are no reported cases on the question of the rights of assignees of partial interests in letters-patent to maintain actions in our courts. Questions of this nature have, however, frequently arisen in the courts of the United States; and as these decisions were not brought before the Court of Common Pleas in the principal case, I venture to call attention to a few of them. In *Whittemore v. Cutter* (1 Gallison, 329) it was held, that an assignee of an undivided moiety of a patent right may join with the patentee in an action for infringements. In *Tyler v. Tuel*, (6 Cranch, 324), decided in 1810, one Benjamin Tyler had assigned to the plaintiffs the full and exclusive right of making, using, and vending an improvement in grist mills, called the *wryfly*, except in certain counties of the State of Vermont. The Supreme Court held that the plaintiffs were not legal assignees, capable of maintaining an action for an infringement.

By the act of Congress of the 4th July, 1836, c. 357, s. 11, "every patent shall be assignable in law, either as to the whole interest, or any undivided part thereof, by any instrument in writing; which assignment, and also every grant and conveyance of the exclusive right, under any patent, to make and use, and to grant to others to make and use, the thing patented within and throughout any specified part or portion of the United States, shall be recorded" &c. The act thus carefully distinguishes between an assignment and the grant of an exclusive right within a certain district. The 14th section of the same act of Congress provides, that the action shall be brought in the name of the person or

persons interested, whether as patentee, assignees, or as grantees of the exclusive right within and throughout a specified part of the United States.

In the case of *Blanchard v. Eldridge*, (1 Wallace, jun. 337; S. C., 2 Robb's Pat. Cas. 737), Blanchard brought a suit in his own name for an infringement of a patent for turning irregular forms, and recovered damages. He had assigned to one Carter the full and exclusive license, right, and permission to have, hold, use, and exercise Blanchard's patent for turning irregular forms, &c., so far as the said improvement is or may be used for turning shoe lasts, boot and shoe trees, and hat blocks, and also for turning spokes for wheels of all kinds of carriages, wheels, and all other articles that form any part in the construction of carriages; to have and to hold the said right and license exclusive of all others, except such as had received grants of licenses before the date of the assignment. The infringement proved was making shoe lasts, i. e. an infringement of one of the rights granted to Carter. The defendant's counsel moved for a new trial, on the ground that Carter was the proper person to have sued. In delivering the judgment of the Court, Grier, J., said, "The point is not without difficulty, and the force of the argument for the defendant cannot be evaded, if the assumption be true that the deed transfers the legal title to Carter of that portion of the patent which it purports to vest in him. But if it does not so operate, it cannot be noticed in a court of law, and cannot affect the case. As these grants of the Crown were at common law construed with the greatest strictness, the privileges granted by a patent for a monopoly would probably not have been treated as capable of assignment unless made so by the letter of the grant. Since the stat. 21 Jac. 1, patents for useful inventions (notwithstanding the statute itself mentions the inventor only) have always granted the privilege and monopoly to the inventor, his executors, administrators, and assigns. These monopolies, are, therefore, assignable as other personal chattels, by force of the grant which creates them. As a chattel, also, it might be held by two or more joint owners; hence any undivided portion or interest in the whole, *as a unity*, might be assigned, and the assignees might join in an action for infringement of their rights;" (citing *Boulton v. Bull*, 2 H. Bl. 463). "But the patent right itself was unsusceptible of local subdivision. As a privilege or monopoly, it was an entire thing, indivisible, and incapable of apportionment;" (citing *Brooks v. Byam*, 2 Story's Rep. 525). "But the act of Congress of 1836 has regulated the assignment of patents. The 11th section provides that a patent shall be assignable—first, as to the whole interest; secondly, as to any undivided part thereof; and, thirdly, an exclusive right may be granted throughout any specified part or portion of the United States. The 14th section requires the action for an infringement of a patent to be brought 'in the name or names of the person or persons interested, whether as patentee, assignees, or as grantees of the exclusive right within and throughout a specified part of the United States.' The word 'assignees,' in this section, must be construed by reference to the 11th section, already referred to, which defines in what way a patent may be assigned—either the whole, or any undivided portion of the whole. This statute also renders the monopoly capable of subdivision in the category of its locality, but in no other way. The patentee is not allowed to carve out his monopoly, which is a unity, into a hundred or more, all acting in the same place, and liable to come into conflict. The grant to Carter by the deed under consideration is not of the whole monopoly, nor of any undivided portion of the whole; and though for an exclusive right, it is not exclusive of all others within a certain district or specified part of the United States; on the contrary, it is an exclusive right to use the ma-

chine for a specific purpose. A machine for turning irregular figures may be used for numberless purposes. If the patentee, or his assignees, can assign to A. an exclusive right to use the machine for making shoe lasts, to B. for turning spokes, to C. for axe handles, and so on to the end of the alphabet, then may he, out of his monopoly, carve a thousand others, each subdivision like a polypus, being itself a several monopoly, and having a separate existence in the same place. What endless perplexity and confusion must necessarily arise from the establishment of such a doctrine. It is sufficient for the purpose of the present inquiry that the act of Congress does not give a legal sanction to such transfers or assignments, nor has it subjected even a pirate of the machine to fifty different suits by fifty several assignees, whose several interests might be affected if a patent could be thus split into numerous exclusive rights or sub-monopolies. Whether this deed confers on Carter and his assigns more than a special license it is not necessary to inquire; as it does not confer a legal title to the whole or an undivided portion of the patent, or grant an exclusive right within a specified part of the United States, it cannot be received to affect this case. It was wholly irrelevant, and ought not to have been received in evidence." He referred also to a case where the same point had been decided by Judge Nelson on the New York Circuit.

Chief Justice Taney, in delivering the judgment of the Supreme Court of the United States in *Gayler v. Wilder*, (10 Howard, 477, 494), said—"The monopoly granted to the patentee is one entire thing. By the 11th section of the act of 1836 the patentee may assign his whole interest, or an undivided part of it. But if he assigns a part, under this section, it must be an undivided portion of his entire interest under the patent, placing the assignee upon an equal footing with himself for the part assigned. Upon such an assignment the patentee and his assignees become joint owners of the whole interest secured by the patent, according to the respective proportions which the assignment creates. By the 14th section the patentee may assign his exclusive right within and throughout a specified part of the United States; and upon such an assignment the assignee may sue in his own name for an infringement of his rights. But in order to enable him to sue, the assignment must undoubtedly convey to him the entire and unqualified monopoly which the patentee held in the territories specified, excluding the patentee himself as well as others; and any assignment short of this is a mere license; for it was obviously not the intention of the Legislature to permit several monopolies to be made out of one, and divided among different persons within the same limits. Such a division would subject a party who made a mistake as to his rights, or used the invention without authority, to be harassed by a multiplicity of suits instead of one, and to successive recoveries of damages by different persons holding different portions of the patent right in the same place. Unquestionably a contract for the purchase of any portion of the patent right may be good, as between the parties, as a license, and enforced as such in the courts of justice; but the legal right in the monopoly remains in the patentee, and he alone can maintain an action against a third party who commits an infringement upon it."

Yours faithfully,

Temple, March 28, 1860.

JOHN P. NORMAN.

**LAW OF PROPERTY AMENDMENT BILL.**—In the number of THE JURIST of the 11th February, the Law of Property Amendment Bill is stated to be the Lord Chancellor's, and his name is on the back of the bill, but this arose simply from Lord St. Leonards having asked him during his absence to read the bill for him a first time, which in the Lords is of course. The bill is Lord St. Leonards', and is a supplement to his bill of last session.

## PROSPECTUS OF THE LECTURES

To be delivered during the ensuing Trinity Educational Term by the several Readers appointed by the Inns of Court.

## CONSTITUTIONAL LAW AND LEGAL HISTORY.

The Reader will pursue the History of our Constitution and Jurisprudence during the Reigns of the Tudors and the Stuarts. He will trace the progress and varieties of judicial opinion, illustrated by references to modern decisions, as bearing on the Law of Real Property, the Law of Evidence, the Law of Contracts, the Law of Libel, the Criminal Law, what is called the Common Law, and the Doctrines of Equity.

The books to which he will chiefly refer are—Lord Bacon's Legal Tracts—Plowden's Reports—Cases of *William and Berkeley*, and of *Richard v. Saunders and Archer*—Case of *The Camoys Peerage*, (6 Cl. & Fin.)—*The Sussex Peerage case*, (11 Cl. & Fin.)—Coke's Institutes—Blackstone's Commentaries, (Kerr's edition)—Butler and Hargrave's Notes to Coke upon Littleton—State Trials—Statutes of the Period—Rapin's History of England—Hallam's Constitutional History—Reeves' History of the English Law, vol. 5, (temp. Elizabeth)—Clarendon's Works—May's History—Millar's History of the Constitution—Burnet's History—Ralph's History—Foxe's Life of James II.—Reports: *The Countess of Rutland's case*, vol. 3; *Lord Abergavenny's case*, vol. 6; *Chudleigh's case*, vol. 1, (Fraser's edition)—Preface to Gilbert on Uses, by Lord St. Leonards—Emlyn's Preface to Second Edition of State Trials.

## EQUITY.

The Reader on Equity proposes to deliver, during the ensuing Educational Term, a course of Ten Lectures on the following subjects:—

1. On the Origin of the Jurisdiction exercised by the Court of Chancery over the Administration of Personal Assets.
2. On Suits for the Administration of Assets, both Real and Personal.
3. On Equitable Assets.
4. On marshalling Assets.
5. On Contracts of Suretyship, and the Equitable Rights to which they give rise.
6. On Suits to enforce the Performance of Agreements.—Limits of this Jurisdiction.—The Statute of Frauds.—Doctrine of Part Performance.

The Reader will continue with his Senior and Junior Classes the general courses of Equity already commenced. He will also continue in both Classes to explain the leading rules of Pleading in Equity, from the work of Lord Redesdale.

## THE LAW OF REAL PROPERTY.

The Reader on the Law of Real Property proposes to deliver, in the ensuing Educational Term, Ten Public Lectures on the following subjects:—

1. The Doctrine of Notice, as between Vendor and Purchaser.
2. The Law of Domicil, as it affects Property.
3. The Law of Fire Insurance.

In his Private Lectures the Reader will refer more particularly to the cases cited in the Public Lectures, and continue his course of Real Property Law, using the work of Mr. Joshua Williams as a text-book.

## JURISPRUDENCE AND THE CIVIL LAW.

The Reader on Jurisprudence and the Civil Law proposes to deliver Ten Public Lectures on the following subjects:—

1. The Theories of Grotius, and the Assumptions which form the Basis of International Law.
2. The Modern History of certain Doctrines of the Roman Jurisconsults.

3. International Law, so far as it is directly derived from Roman Law.

4. The Roman and Feudal Conceptions of Property, with the consequences to which they respectively tend.

5. The Roman Law of Crimes.

6. Domicil.

With his Private Class the Reader will read the Roman Law of Persons, taking as his principal text-book the Commentaries of Gaius, and at the same time making use of the work of Warnkönig, *Institutiones Juris Romani Privati*. He will also read certain specified titles of the Digest.

## COMMON LAW.

The Reader on Common Law proposes to deliver, during the ensuing Educational Term, Ten Public Lectures, as under—

Prior to the Recess the Reader will lecture on the Law of Torts, inquiring as to—

1. The Ingredients in a Right of Action ex Delicto.
2. The Ordinary Forms of Actions ex Delicto.
3. The Pleadings in such Actions.

After the Recess the Reader will lecture on Criminal Law, more particularly on—

1. The Elementary Principles of our Criminal Law.
2. Criminal Procedure, including that before Justices of the Peace.
3. Offences of Ordinary Occurrence, whether triable at the Assizes or at Sessions; first, against the Person and Reputation; secondly, against Property.

With his Private Class the Reader will, so far as time may allow, pursue in detail the course of instruction above generally indicated, especially directing attention to the most recent Reported Cases having reference to the subjects specified. The Reader will use as Text-books Smith's Leading Cases, (4th edition); Broom's Legal Maxims (3rd edition) and Commentaries on the Common Law; and Blackstone's or Stephens' Commentaries on the Laws of England.

By order of the Council,

(Signed) RICHARD BETHELL, Chairman.

Council Chamber, Lincoln's-inn,  
March 23, 1860.

## Court Papers.

## COMMON-LAW CAUSE LISTS, EASTER TERM, 1860.

## Court of Queen's Bench.

## NEW TRIALS.

## FOR ARGUMENT.

<i>Moved Mich. Term, 1858.</i>	<i>Moved Hilary Term, 1860.</i>
Cornwall—Lyle v. Richards	Midd.—Harwood & an. v.
(Stands over till decision in	Grt. Northern Rail-
Reynolds v. Buckley)	way Co.
	" Bickford v. Royal
<i>Moved Mich. Term, 1859.</i>	Mail Steam Packet
Lond.—Dixon v. White (Part	Co.
heard, stands for ar-	" Elwes v. Christopher
rangement)	Doulton v. Stiff
" Potter v. Parr & ors.	Lond.—Zwischenbart & ors.
Cartale—Potts v. Port Car-	v. Alexander
lisle Dock & Rail-	" Simpson v. Young
way Co. (Part	" Margetson v. Atkin
heard, demurrer	" Coggin v. Levy
for argument)	" Lowenthal v. Ro-
Herts—Manser v. Christie	quejo
Surr.—Wren v. Eastern Coun-	<i>Tried during Term.</i>
ties Railway Co.	Midd.—Joyce v. Joyce
Pembroke—Goode v. South	" Johnson v. Tyrrell
Wales Railway	" Lavigne v. Smith
Co.	" Long v. Hales.

## SPECIAL PAPER.

Those marked thus \* are Special Cases, and those † Demurrers.

## FOR ARGUMENT.

- \***Boyd v. Liverpool Borough Bank** (Part heard)  
 †**Potts v. Port Carlisle Dock and Railway Co.** (To come on for argument with the case in New Trial Paper)  
**Wright v. Stavert** (Appeal from County Court)  
 \***Hodgson & ora. v. Hooper**  
 †**Hornsby & an. v. Vestry of St. Luke's, Chelsea**  
 \***Harrison v. London, Brighton, & South-coast Railway Co.**  
**Wanless v. Jackson** (Appeal from County Court)
- Smith & ora. v. Badger** (Appeal from County Court)  
 \***Guardians, &c. of the Portsea Island Union v. Whillier**  
**Foster v. Watson** (Appeal from County Court)  
 †**Murrieta & ora. v. Robinson**  
 †**Dutton & an. v. Powles**  
 \***Bennett v. Great Western Railway Co.**  
 †**Company of Proprietors of Warwick and Birmingham Canal Navigation v. Oxford, Worcester, & Wolverhampton Railway Co.**  
 †**Phillips v. Whitsea.**

## ENLARGED RULES.

## First Day.

- Luce & ora. v. Guardians of the City of London Union**  
**Betts v. Menzies & an.**  
**Reg. v. Council of Medical Education**  
**Reg. v. Archbishop of Canterbury**

- Reg. v. Broughton**  
**Reg. v. Fairbank**

## Second Day.

- Reg. v. Justices of Gloucestershire**  
**Reg. v. Fox.**

## CROWN PAPER, EASTER TERM, 1860.

- Metropolitan Police District....** { **Overseers of St. Botolph, Aldgate, v. Board of Works of the Whitechapel District.**
- Breconshire ....** **Fowke v. Eynon.**  
**Flintshire .....** **Brooks v. Wood.**  
**Warwickshire ..** **Domville v. Churchwardens of Burmington.**  
**Metropolitan Police District....** } **Horley v. Rogers.**  
**Worcestershire....** **Cox v. Hingley.**  
**Bedfordshire....** **Luton Board of Health v. Davis.**  
**Yorkshire .....** **Reg. v. Inhabitants of Liverpool.**  
**Kent .....** **Inhabitants of the County of Kent.**  
**King's Lynn....** **Cole v. Colton.**  
**Lancashire ....** **Knowles v. Dickinson.**  
**Staffordshire....** **Reg. v. Proprietors of the Birmingham Canal Navigation.**  
**Surrey .....** **Churchwardens of St. Pancras.**  
**Hants .....** **Overseers of Everton.**  
**Yorkshire .....** **Inhabitants of Thornton.**  
**Cardiff .....** **Wadley v. Godwin.**  
**Kent .....** **Reg. v. Groves.**  
**Denbighshire....** **Sarratt v. Bradshaw.**  
**St. Ives .....** **Churchwardens of St. Ives v. Quick.**  
**Middlesex .....** **Reg. v. Churchwardens of All Saints.**  
**Same .....** **Imperial Gas-light Co.**  
**Kent .....** **Overseers of the Parish of Blackmanstone.**  
**Cambridgeshire..** **Sparrow v. Churchwardens of Impington.**  
**Kent .....** **Reg. v. Inhabitants of the County of Kent.**  
**Essex .....** **Patten v. Rhymer.**  
**Monmouthshire..** **Leary v. Lloyd.**  
**Devonshire .....** **Chilcote v. Youldon.**  
**Warwickshire ..** **Butler v. Lord.**  
**Surrey .....** **Reg. v. Inhabitants of Putney.**  
**London .....** **Sadlers Co.**  
**Breconshire ....** **Thomas v. Williams.**

## Court of Common Pleas.

## NEW TRIALS.

- Midd.—Smith v. Knight** | **Lord.—Oxley v. Holden**  
 " **Warland v. Smith** | " **Walton v. Lavater**  
 " **Ripley v. Lordan** | " **Lockwood v. Levick**  
**Lord.—Seeger v. Duthie** | " **Morgan v. Taylor**  
 " **Suse v. Pompe** | **Liverp.—Ward v. Napier.**  
 " **Oakley v. Ooddeen**

## DEMURRER PAPER.

- Monday... April 16** }  
**Tuesday..... 17** } **Motions in arrest of Judgment.**  
**Wednesday..... 18** }  
**Thursday..... 19** }

## SPECIAL ARGUMENTS.

## Monday, April 23.

- Wolverhampton New Waterworks Co. v. Holyoake (D., to be argued with sp. case)**  
**Hutchinson v. Copestake (Ca. N. P.)**  
**Simpson v. Dendy (Case N.P.)**  
**Brown v. Symons (D.)**  
**Newman v. Baker (Ap.)**  
**Pedgrift v. Chevallier (Ap.)**  
**Same v. Same (Ap.)**  
**Ellis v. Woodbridge (Ap.)**  
**Williams v. Wheeler (Ap.)**  
**London Gas-light Co. v. Vestry of the Parish of Chelsea (D.)**  
**Russell v. Nicolopulo (D.)**  
**Barber v. Lamb (D.)**  
**Holder v. Soulbey (D.)**  
**Wale v. Westminster Palace Hotel Co. (D.)**  
**Keene v. Beard (D.)**

- Hildreath v. Adamson (Ap.)**  
**Wood v. Leatherhead Railway Co. (Case N. P.)**  
**Gorsuch v. Cree (D.)**  
**Mersey Docks and Harbour Board v. Jones (Case by order)**  
**Yates v. Nash (D.)**  
**Broad v. Glennie (Ap.)**  
**Robinson, ex parte Vernon (Ap.)**  
**Thornton v. Betts (Ap.)**  
**Guardians of the Poor of the City of London Union v. Acocks (Ap.)**  
**Llandaff and Canton. Market Co. v. Lyndon (Ap.)**  
**Swindell v. Birmingham Canal Navigation Co. (D.)**  
**Turnnival v. Grose (Case)**  
**Townsend v. Crowdy (Case by order).**

## ENLARGED RULES.

## First Day.

- In re Colne Valley and Halstead Railway Co. v. Eastern Counties Railway Co.**  
**In re Nutt v. Midland Railway Co. (Until application to Chancery is disposed of)**

## Fourth Day.

- Slipper v. Back**  
**Erwin v. Same**  
**Walter v. Whitaker (Until proceedings in Chancery are disposed of).**

## CUR. ADV. VULT.

- In re North British Australasian Co., ex parte Swan.**  
**Gardner v. Chapman (D.)**

## Court of Exchequer.

## SITTINGS—EASTER TERM, 1860.

- | <i>Days in Term.</i>        | <i>Banc.</i>                                  |
|-----------------------------|-----------------------------------------------|
| <b>Monday .... April 16</b> | <b>Motions and Peremptory Paper.</b>          |
| <b>Tuesday..... 17</b>      | <b>Errors, Peremptory Paper, and Motions.</b> |
| <b>Wednesday..... 18</b>    | .....                                         |
| <b>Thursday..... 19</b>     | .....                                         |
| <b>Friday..... 20</b>       | .....                                         |
| <b>Saturday..... 21</b>     | .....                                         |
| <b>Monday..... 23</b>       | <b>Special Paper.</b>                         |
| <b>Tuesday..... 24</b>      | .....                                         |
| <b>Wednesday..... 25</b>    | <b>Special Paper.</b>                         |
| <b>Thursday..... 26</b>     | .....                                         |
| <b>Friday..... 27</b>       | .....                                         |
| <b>Saturday..... 28</b>     | <b>Criminal Appeals.</b>                      |
| <b>Monday..... 30</b>       | <b>Special Paper.</b>                         |
| <b>Tuesday..... May 1</b>   | .....                                         |
| <b>Wednesday..... 2</b>     | <b>Special Paper.</b>                         |
| <b>Thursday..... 3</b>      | .....                                         |
| <b>Friday..... 4</b>        | .....                                         |
| <b>Saturday..... 5</b>      | .....                                         |
| <b>Monday..... 7</b>        | .....                                         |
| <b>Tuesday..... 8</b>       | .....                                         |

## Days in Term.

## Nisi Prius.

- Tuesday .... April 17** **Middlesex, first Sitting.**  
**Monday ..... 23** **London, first Sitting.**  
**Wednesday ..... 25** **Middlesex, second Sitting.**  
**Monday ..... 30** **London, second Sitting.**  
**Wednesday .... May 2** **Middlesex, third Sitting.**

## NEW TRIALS.

## FOR JUDGMENT.

Midd.—Tutton v. Darke  
 Lond.—Swinfen v. Chelmsford

## FOR ARGUMENT.

Lond.—Bovill v. Pimm  
 " Wyborn v. The Great Northern Railway Co.

*Moved Mich. Term, 1859.*

Bodmin—Chappell v. Bray  
 Carlisle—Watson v. Little  
 Croydon—Nixon v. Freeman  
 " Rodrigues v. Mech  
 " Jones v. Davies  
 " Alexander v. Workman

*Moved Hilary Term, 1860.*

Midd.—Croxon v. Moss  
 " Stevens v. Reynolds  
 Lond.—Lozano v. Durant  
 " Homer v. Taunton  
 " Horton v. M'Murtry  
 " Noble v. National Discount Co.  
 Liverp.—Liverpool Borough Bank v. Logan

*Moved after the 4th day of Hilary Term, 1860.*

Midd.—Beatson v. Skene  
 " Nurton v. Dickson  
 Lond.—Anderson v. Clark  
 " Millership v. Brookes.

## SPECIAL PAPER.

## FOR JUDGMENT.

Dick v. Tolhausen (D., stands over till motion for judgment on issue of null tiel record is disposed of)

Adkins v. Farrington (Sp. C.)

## FOR ARGUMENT.

Brewer v. Dimmack (D., part heard, standing for arrangement)

London and North-western Railway Co. v. Great Western Railway Co. (D., stands over for arrangement)

Kidd v. Fowler (D., stands over to see if special case can be argued upon)

Anglo-Californian Gold Mining Co. v. Lewis (D., to stand over till issues in fact tried)

Fresart v. Lawrence (D., to stand over till issues tried)

Price v. Taylor (D.)

Shareholders of the Liverpool Library v. Mayor and Aldermen of the Borough of Liverpool (Sp. C.)

## PEREMPTORY PAPER.

*To be called on the first Day of Term after the Motions, and to be proceeded with the next Day, if necessary, before the Motions.*

Whaley v. Laing  
 Ex parte Harris  
 Leefe v. Hart.

In re Anglo-French Porcelain Co. v. Harris

## BILL IN PROGRESS.

## THE ADMIRALTY COURT JURISDICTION BILL.

(MR. DIGBY SEYMOUR AND MR. EDWIN JAMES).

*Abstract of a Bill to amend the High Court of Admiralty.*

Sect. 1. Jurisdiction in personam. Contracts. Torts. Part owners. Concurrent jurisdiction. Reservation of existing jurisdiction.

2. Jurisdiction in rem. Necessaries.

3. Damage to cargo imported in foreign or colonial ships.

4. General jurisdiction in rem in case of registered mortgages. 17 & 18 Vict. c. 104, ss. 66, 67.

5. Concurrent jurisdiction with Court of Chancery. 17 & 18 Vict. c. 104, ss. 62, 65, 145.

6. In case of British subjects or aliens abroad disobeying decrees in Admiralty, process in rem may issue against any ships of such subjects or aliens.

7. Power to seize a ship belonging to British subjects or aliens, if decree disobeyed, and ship about to sail to evade jurisdiction.

8. Decrees in Admiralty assimilated to judgments at law. 1 & 2 Vict. c. 110; 3 & 4 Vict. c. 82; 2 & 3 Vict. c. 11; 18 & 19 Vict. c. 15.

9. Power to issue new writs. 3 & 4 Vict. c. 65.

10. The judge in Admiralty to have same powers as judges at common law where he exercises a concurrent jurisdiction. 3 & 4 Vict. c. 65, s. 18.

11. Registrar to have same powers as master at law or chief clerk in equity.

12. Judge-assessors and registrar to have same powers as surrogate at chambers.

13. Registrar to settle disputes as to expenses of witnesses. 17 & 18 Vict. c. 104, s. 13.

14. Appointment of two judge-assessors in Admiralty.

15. Duties of the judge-assessors in Admiralty.

16. Judge-assessor to sit as judge in case of illness of judge, &c.

17. Judge-assessors to hold courts at the outports.

18. Investigations under parts 3 and 8 of the Merchant Shipping Act, 1854, to be held before judge-assessors in Admiralty. 17 & 18 Vict. c. 104, ss. 241, 432, 433, 434, 435. Appeal.

19. Costs of investigations.

20. Master or mate to deliver his certificate to judge-assessor.

21. Power to direct the trial of issues by jury.

22. Juries to be summoned &c. as at common law.

23. Form of issue to be directed by judge, and tried as at Nisi Prius.

24. Rules of evidence at common law to be observed.

25. Judges may be assisted by a judge of the superior courts of law or equity.

26. The merchant-assessors to be six in number.

27. Selection of one or more merchant-assessors to hear any cause.

28. Merchant-assessors extraordinary to be appointed. 17 & 18 Vict. c. 104.

29. Remuneration of merchant-assessors.

30. All offices to be open to attorneys and solicitors to which proctors are eligible. 3 & 4 Vict. c. 68, s. 11.

31. Judge to have same power as judges of courts of law or equity over proctors, attorneys, and solicitors.

32. Commissioners for taking affidavits.

33. False oath or affirmation to be perjury.

34. Salary and pension of judge. 3 & 4 Vict. c. 66, ss. 1, 7.

35. Salaries of judge-assessors.

36. Repeal of sect. 10 of the 20 & 21 Vict. c. 77.

37. Commencement of act.

38. Short title of act.

The Queen has been pleased to confer the honour of Knighthood upon Edward Shepherd Creasy, Esq., Chief Justice of Ceylon.

A singular suit has just been decided in the Champaign (Ohio) Court of Common Pleas. The action was brought under the "Act to provide against the Evils from the Sale of Intoxicating Liquors," passed the 1st May, 1854, the 7th section of which gives to a wife, child, parent, guardian, employer, or other person who shall be injured, in person, property, or means of support, by an intoxicated person, a right of action against the person who sold the liquor to the intoxicated person. The plaintiff in the case was Jane Brush, and the defendant Peter Lawson. Damages were laid at 20,000 dollars. The plaintiff set forth in her petition that she was, on the 29th April last, and now is, the wife of one Reed Brush; that the said Reed Brush was, and for a long time had hitherto been, in the habit of getting intoxicated and drunk, which was well known to the defendant; that the said defendant, well knowing the premises, did, on the 29th April, 1859, in violation of the law, sell and deliver to the said Brush one pint of whisky, which the said Brush then and there drank, and with which the said Reed Brush was intoxicated and frenzied; that in consequence of the said sale, and by means of the said drunkenness, and while in the said state of intoxication, the said Brush did furiously seize an axe, and without provocation upon the part of the plaintiff, with force and violence cut off her left foot, whereby the plaintiff is now crippled. The defendant alleged that the maiming, &c. of the plaintiff was the result of a domestic quarrel, brought about by her unchaste conduct, &c. The Court ruled that the immoral character of any one could not reduce the rights guaranteed by law to him; that Reed Brush was the instrument of Peter Lawson, and the defendant could not claim anything more in this case than if he had in propria persona thrown the axe. The jury, after a consultation, returned a verdict for the plaintiff, assessing her damages at 5000 dollars.



Gloucester, and Albion-place, Camberwell New-road, Camberwell, Surrey, solicitors and attorneys.—*George Becke and Robert Metcalfe*, Bedford-row, Middlesex, attorneys and solicitors.

PETITION ANNULLLED.

*James Ward* the younger, Queen-street, Pimlico, Middlesex, glass dealer.

SCOTCH SEQUESTRATIONS.

*Thomas Alfred Pott*, Fort-William, insurance manager.—*John Forrester*, Edinburgh, draper.—*Rowland Price*, Edinburgh, attorney-at-law.—*William Henry Cole*, Stornoway, Island of Lewis, Ross-shire, gentleman.—*James Lawson*, Edinburgh, builder.—*John McEwen*, Stirling, fishmonger.—*James Craig*, Baidland, Dairy, Ayrshire.—*James Veitch*, Edinburgh, hotel-keeper.—*Richardson & Crichton*, Glasgow, drapers.—*Law, White, & Co.*, Glasgow, merchants.—*James Druce*, Kingstons, Glasgow, salesman.—*Neil Macneil*, Corrachy, Avoch, Ross-shire, farmer.—*Alexander Wilson*, Coulmore, Ross-shire, farmer.—*William Fairbairn*, Hamilton, Lanarkshire, carter.—*Christopher Galbraith*, Edinburgh, timber merchant.—*John Gourlay*, Dumfries, plumber.—*Muir, Steel, & Co.*, Port-Dundas, Glasgow, saw millers.

TUESDAY, April 3.

BANKRUPTS.

**EDMUND UNDERWOOD**, Soham, Cambridgeshire, grocer, April 18 at half-past 11, and May 10 at 2, London: Off. Ass. Bell; Sols. Watts, St. Ives; Rennols, 1, Lincoln's-inn-fields, London.—Pet. f. March 30.

**ROBERT GOLDIE**, Oundle, Northamptonshire, draper, April 18 at half-past 1, and May 16 at 1, London: Off. Ass. Graham; Sols. Lepard & Gammon, 9, Cloak-lane, London.—Pet. f. March 23.

**WALTER FAITHFULL**, Ironmonger-lane, City, linen agent, April 17 at half-past 2, and May 22 at 12, London: Off. Ass. Lee; Sols. Davidson & Co., 22, Basinghall-street, London.—Pet. f. March 30.

**WILLIAM HENRY UNWIN** and **JOSEPH GREENWOOD**, Henry-street, Limehouse, Middlesex, (late of Sheen Mount, East Sheen, Surrey), builders, (trading together under the style or firm of Unwin & Greenwood), April 17 at 3, and May 22 at 1, London: Off. Ass. Lee; Sol. Neal, 4 and 5, Pinners'-hall, Old Broad-street, London.—Pet. f. March 31.

**JOHN UNDERWOOD**, Maclean's-buildings, New-street-square, Shoe-lane, City, wholesale stationer, (trading under the firm of John Underwood & Co.), April 16 at 1, and May 21 at 11, London: Off. Ass. Pennell; Sol. Chidley, 10, Basinghall-street, London.—Pet. f. April 2.

**JOHN CLARKE**, Lichfield, grocer, (carrying on business with George Oldfield and Robert Oldfield, under the firm of Oldfields & Clarke), April 16 and May 7 at 11, Birmingham: Off. Ass. Whitmore; Sols. Dyott, Lichfield; Reece, Birmingham.—Pet. d. March 31.

**JOSEPH OLDROYD**, Batley, Yorkshire, blanket manufacturer, April 16 and May 21 at 11, Leeds: Off. Ass. Hope; Sols. Bond & Barwick, Leeds.—Pet. d. March 28.

**JOSEPH SLATER**, Leeds and Oulton, Yorkshire, stone merchant, April 23 and May 21 at 11, Leeds: Off. Ass. Hope; Sols. Bond & Barwick, Leeds.—Pet. d. April 2.

**JOHN WILLIAM GRAVES**, Birkenhead, Cheshire, chemist, April 12 and May 7 at 11, Liverpool: Off. Ass. Bird; Sols. Woodburn & Pemberton, Liverpool.—Pet. f. March 28.

MEETINGS.

*William Johnson*, Shrewsbury, Shropshire, leather dealer, April 23 at 11, Birmingham, last ex.—*John Stoute Date*, Cardiff, Glamorganshire, flour merchant, April 19 at 11, Bristol, and ac.—*Francis Tombs*, Cheltenham, Gloucestershire, miller, April 19 at 11, Bristol, and ac.—*James Gilbert*, Manchester, contractor, April 18 at 12, Manchester, and ac.; April 25 at 12, div.—*Thomas Biggleston*, Hereford, grocer, April 20 at 11, Birmingham, and ac.—*Thos. Buss*, Market Harborough, Leicestershire, chemist, May 3 at 1, Birmingham, and ac.—*Bearon Marks* and *Edward Samuel Franklin*, Birmingham, woollen merchants, May 10 at 11, Birmingham, and ac.—*Joseph Morris*, Astwood Bank, Feckenham, Worcestershire, needle manufacturer, April 20 at 11, Birmingham, and ac.—*James Key*, Great Prescott-street, Goodman's-fields, Middlesex, oilman, April 18 at half-

past 1, London, fin. div.—*Henry Winder*, Oxford-street, Middlesex, shawl dealer, April 25 at 2, London, div.—*Martin Ward*, Mark-lane, City, corn merchant, April 25 at half-past 1, London, div.—*Edward T. Wand*, Pischley, Middlesex, licensed victualler, April 25 at 1, London, div.—*John Thos. Keell*, Howland-street, Tottenham-court-road, Middlesex, and Bouverie-street, City, publisher, April 25 at half-past 12, London, div.—*William Holmes Wakelin*, Ealing, Middlesex, builder, April 25 at half-past 2, London, div.—*Henry Harris*, Wood-street, Cheapside, City, mantle manufacturer, April 26 at 11, London, div.—*William Charles Chapman* and *William Henry Littlepage*, Harp-lane, City, and Bermondsey-street, Southwark, Surrey, coopers, April 26 at half-past 12, London, div.—*Robert Oakley Wilkins*, Appledram, near Chichester, Sussex, corn dealer, April 26 at 12, London, div.—*Thomas Hustler Pars*, Newmarket St. Mary, Suffolk, grocer, April 26 at 3, London, div.—*Edward Bell*, Wapping-wall, Wapping, Middlesex, ship chandler, April 26 at 11, London, div.—*Robert Reynolds Filmer*, Cheltenham, Gloucestershire, butcher, April 26 at 11, Bristol, first and fin. div.—*Thomas Gibbons*, Edgley, Stockport, Cheshire, linendraper, April 25 at 12, Manchester, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

*Thomas Lee Story*, Thrapston, Northamptonshire, tailor, April 25 at 1, London.—*Joseph Tilley*, St. Andrew's-road, Horsemonger-lane, Southwark, Surrey, licensed victualler, April 25 at 2, London.—*Adolph Worman*, Minories, London, and Alfred-street, Bow-road, Middlesex, shoe manufacturer, April 26 at 11, London.—*John Chamberlin*, Rupert-street, Haymarket, Middlesex, wheelwright, April 25 at 12, London.—*Thomas Sharp*, Aldershot, Southampton, hotel keeper, April 25 at 11, London.—*David S. Oliver*, Bristol, wine merchant, April 24 at 11, Bristol.—*Edward Elliott*, Berwick-upon-Tweed, quarryman, April 26 at 12, Newcastle-upon-Tyne.—*John Rowatson* and *John Brooks*, Liverpool, builders, April 24 at 12, Liverpool.—*John Herd*, Liverpool, corn merchant, April 24 at 11, Liverpool.

To be granted, unless an Appeal be duly entered.

*James Lomax*, Bolton, Lancashire, tailor.—*W. Forrester*, Hanley, Staffordshire, iron merchant.—*John Jones*, Tunstall, Staffordshire, ironmonger.—*William S. Lynall*, Birmingham, glazier.—*John Peck*, Birmingham, brass cock founder.—*W. Jackson*, Kidderminster, Worcestershire, victualler.—*Thos. Biggleston*, Hereford, grocer.—*William Boswell*, Birmingham, licensed victualler.—*John Dyke*, Birmingham, grocer.—*Matthew Bradbury* and *George Weaver*, Tunstall, Staffordshire, drapers.—*Wm. John T. Smith*, Birmingham, fancy paper box maker.—*Frederick Giles*, Dudley Port, Tipton, Staffordshire, ironmaster.

PARTNERSHIPS DISSOLVED.

*Samuel Brown Jackson* and *Frederick Smith*, Essex-street, Strand, Middlesex, attorneys and solicitors, (under the style or firm of Jackson & Smith).—*James Vincent Harting* and *Joseph Thomas Harting*, Lincoln's-inn-fields, Middlesex, attorneys and solicitors.

SCOTCH SEQUESTRATIONS.

*George G. Dodds*, Strathaven, Lanarkshire, coalmaster.—*John M. Hall*, Edinburgh, doctor of medicine.—*Wm. O. Campbell*, Kirkwall and Plainstones, Stromness, grocer.—*Egbert Moxham*, Neath, Glamorganshire, architect.—*J. M. Anderson*, Glasgow, ironmonger.—*Henry C. Griffiths*, Glasgow, professor of music.—*A. Stewart*, Irvine, grocer.

COMMISSIONER TO ADMINISTER OATHS IN COMMON LAW.—*Charles Few*, jun., Gent., of No. 2, Henrietta-street, Covent-garden, has been appointed a London Commissioner for administering oaths in common law in the Courts of Queen's Bench, Common Pleas, and Exchequer.

The Supreme Court of New South Wales has appointed *Samuel Thomas Clarke*, of No. 30, Bury-street, St. James's, Westminster, Solicitor, a Commissioner of that Court for taking affidavits and examining witnesses at law or in equity in all proceedings pending or to arise in the said Court.

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<i>In the Goods of</i> Alexander.—( <i>Married woman's will—Domicil</i> ) .....	354

THE JURIST.

LONDON, APRIL 14, 1880.

THE old doctrine, that a corporation aggregate has no soul, and therefore is incapable of a malicious intention, has been described by Erle, C. J., as being rather quaint than substantial; and accordingly, in these days, when substance is preferred to form, and utility to quaintness, it has been held that corporations, especially those of a trading character, have souls, and may therefore be guilty of malice. The number and importance of corporate bodies established for the purposes of trade in modern times, and transacting their business through the agency of servants, have rendered it necessary to relax the old rules existing upon the subject, and to extend to them the maxim "*respondeat superior*," as if they were private individuals, the only special limitation ingrafted upon their liability being, that the act complained of should be within the scope and purpose of the incorporation. Thus, after being held liable to an action for a false return to a mandamus, (*Yarborough v. The Bank of England*, 16 East, 6); for the negligence of their servants, (*Scott v. The Mayor, &c. of Manchester*, 2 H. & Norm. 204; 3 Jur., N. S., part 1, p. 590); for an assault, (*The Eastern Counties Railway Company v. Broom*, 6 Exch. 314; 15 Jur., part 1, p. 297); for false imprisonment, (*Chillon v. The London and Croydon Railway Company*, 16 M. & W. 212); to an indictment for non-feasance, (*Reg. v. The Birmingham and Gloucestershire Railway Company*, 3

Q. B. 223); and for misfeasance, (*Reg. v. The Great North of England Railway Company*, 9 Q. B. 315; 10 Jur., part 1, p. 755), it was decided, that an incorporated company might be sued for a libel contained in a message transmitted by their telegraph, the company being incorporated for the purpose (*inter alia*) of transmitting messages, (*Whitfield v. The South-eastern Railway Company*, 4 Jur., N. S., part 1, p. 688), and that they might also be guilty of acts maliciously committed with a view to injure individuals or rival companies. (*Green v. The London General Omnibus Company*, 6 Jur., N. S., part 1, p. 228). In this last-cited case the declaration in substance alleged that the defendants maliciously placed their omnibuses just before and just behind the omnibuses of the plaintiff, (he being a carrier of passengers for hire, &c.), so as to prevent persons from entering the plaintiff's omnibuses. Upon demurrer, on the ground that a corporation aggregate could not be guilty of a malicious intention, the declaration was supported; and in delivering the judgment of the Court, Erle, C. J., said—"The whole of the acts that are charged against the defendants are acts connected with the driving of their vehicles; and this is a company incorporated for the purpose of driving omnibuses, and therefore the actual things done by the defendants are acts within the purpose of their incorporation. Unless they had been wrongfully done, of course there could be no ground of complaint; but being wrongfully done, we think clearly the action lies. . . . An action for a wrong lies against a corporation where the thing done is within the purpose of the in-

corporation, and it has been done in such a manner as to constitute what would be an actionable wrong if done by a private individual. . . . There are numerous authorities in support of the principle on which we rely; and I may add, as an additional reason for our decision, the inconvenience to the public that would arise if we were to hold that these companies, incorporated for the purposes of trade, had a restricted limitation put upon their liability by reason of such incorporation, and were exempt from responsibility because they intentionally wronged the public. We think it extremely important, where such companies admit that they have in fact intentionally committed a wrong, that the public should have a remedy against them, and not be driven to an action against their servants and others whom they have employed, and who may be entirely incapable of giving the recompense which the law may award."

### OBSERVATIONS ON THE LAW AND EQUITY BILL.

THE following observations on the Law and Equity Bill have been laid before the House of Lords:—

"The intention of the framers of this bill would appear to have been the prevention of delay and expense, by rendering the court in which litigation of any kind may be commenced competent to the determination of all questions whose solution is necessary in order that complete justice may be done between the litigants.

"So far as this can be 'satisfactorily' done, to use the language of the preamble, no one would question the expediency of legislation; but it appears to us that the principle upon which it is attempted in the bill is essentially erroneous.

"The bill may be divided into two principal heads.

"It commences by conferring on persons apprehensive of an injury, which would be the subject of redress in a court of law, the power of originating proceedings in a court of law to prevent the injury. It subsequently enables a plaintiff, who insists on a legal title, to compel his adversary to submit his defence, which may be merely equitable, to the decision of a Court of law, and deprives the defendant of all power of having recourse to a Court of equity.

"The result is this:—A plaintiff is to be allowed, in each class of cases, to have the choice of his court; and any one having a legal title to property, but subject to equitable claims, may, by taking the initiative as plaintiff in a court of law, withdraw the equitable claims, the only real question probably in dispute, from the consideration of the Courts which have hitherto been accustomed to take cognisance of them.

"No solid reason can be given for either course of action. As long as the distinction exists between legal and equitable interests, so long will two different courses of procedure be required, whether such procedure be exercised by one Court (as formerly on the two sides of the Court of Exchequer) or by separate Courts, as in the courts of common law and the courts of equity; and the only 'satisfactory' mode of doing complete justice will be by employing the apt procedure in each case, according to the nature of the rights in question between the parties. The bill leaves it to the choice of the plaintiff to determine whether his antagonist shall have this advantage or not.

"The 12th clause of the bill recognises the probable existence, indeed, of cases in which a Court of common law cannot do justice; but the 30th clause renders it impossible for the defendant to seek aid elsewhere un-

less the Court of common law shall have become convinced of such its incapacity.

"The true principle, as it appears to us, on which a bill for enabling a Court of common law to do complete justice between the litigants, without regard to the distinction between legal and equitable rights, should proceed, would be this—remodel the court of law; give it all the officers proper to the adjustment of equitable questions; reconstruct its procedure where equitable rights may intervene; or, in other words, reconstitute such a court as the equity side of the Court of Exchequer, which was recently abolished, with the general approbation of the Profession. But to enact that a Court of common law, either with its existing incomplete machinery, or with some imperfect additions to its powers, falling far short of those vested in Courts of equity, shall either on the one hand abandon the case, owing to its incompetency, after great expense and delay on the part of all concerned, or shall proceed and compel the defendant to submit himself to the procedure of the imperfectly constituted court, seems to us calculated to create confusion, from the probably conflicting decisions of Courts of law and equity on the same class of questions; injustice to the defendant, whose rights are subjected, without his consent, to the operation of an imperfectly constituted tribunal; and, in the greater number of cases, to double vexation, after much useless delay and expense.

"The mode of appeal provided by the bill is a further instance of the mischief that may arise to suitors. The appeal is to be to a Court of error—a very competent tribunal for determining the points of law which remain when a jury has solved the questions of fact, but rigid in the extreme in its rules of procedure, and utterly incompetent to dispose of the mixed questions of fact and law that continually arise on appeals from Courts of equity.

"We would beg to suggest a few instances only in which the bill may work great injustice. A vendor has let a purchaser into possession on a parol agreement. The purchaser may have effected extensive improvements. The vendor, apprehensive of a bill for specific performance, brings ejectment, with no object but that of bringing the defendant before a Court of law instead of a Court of equity. A fraudulent trustee brings ejectment against his cestui que trust. An equitable mortgage has been created by deposit of deeds; the mortgagor brings detinue for the deeds. In all these cases, we ask, why is the plaintiff to be at liberty to change the jurisdictions? There is really no question of law between him and the defendant; the whole dispute is on the equitable right.

"Courts of equity determine the rights of every person interested in the question raised once for all, but for this purpose necessarily convene all persons interested. Questions as to parties are often questions of considerable nicety. The Court of law cannot, under this bill, summon any parties other than the litigants in the action. It may, however, determine that no other party is necessary, and the defendant will have to submit to that conclusion; but on a bill filed by any of the absent parties, a Court of equity may come to a contrary conclusion, and the defendant may have to abide a decision the reverse of that which he had to submit to at law.

"We see no adequate provision for the protection of infants, whose trustees may have subjected themselves to the operation of the 30th clause, and be thus precluded from asserting the rights of the infant in equity.

"It is reasonable that, *where both parties consent*, any matters, either legal or equitable, should be determined by one Court. It is quite reasonable, also, that no slight incidental equities on collateral points should impede the decision of the Court of law; but, in practice, we conceive the constitution of the courts of law, and



their ordinary course of procedure, point with sufficient clearness to the extent of jurisdiction which can be conveniently conferred on them for this purpose. Whenever a case can be brought to a single issue of law or fact between the parties, whether the issue depend on legal or equitable title, the Court of law can satisfactorily determine it. The existing statutes have, as it seems to us, provided an adequate remedy by allowing equitable pleas; and where such pleas have failed, the reason of such failure has been the want of adequate machinery to work out the determination of the right. The 10th clause attempts to extend the jurisdiction, and some attempt is made to extend the machinery; but nothing short of a complete conversion of the court into a court of equity can secure the result aimed at, viz. satisfactory decision; and the 12th clause will be found ultimately to render the bill a dead letter.

"We do not wish to be understood as recommending a reconstruction of the courts of law on the model of the old Court of Exchequer. We think no attempt should be made to alter our tribunals until a careful revision has been made of our whole law.

"JOHN ROMILLY, M. R.

"RICHARD T. KINDERSLEY, V. C.

"JOHN STUART, V. C.

"W. P. WOOD, V. C.

"March 22, 1860."

## THE PLEA OF "NOT GUILTY."

(From *The Friend of the People*).

At the present time, while a bill is before Parliament for the purpose of doing away with the plea of "not guilty," it will interest our readers if we lay before them some extracts from a letter written by the Rev. W. C. Osborn, who was for many years chaplain to the gaol at Bath. Nothing can be more conclusive in favour of an alteration in the law than his observations, and no one has had greater experience in the evils arising from the present system. Indeed, when the very trivial objections against any alteration in the law are considered, the only wonder is, that a remedy so simple and so efficient as that of at once doing away with the plea of "not guilty" has not long ago been adopted.

The Rev. Mr. Osborn notices the various meanings given to this plea by learned writers on the subject. It is generally explained as being a mere matter of form. Some persons have held that the words, "Are you guilty or not guilty?" are not to be understood according to the usual meaning of language, but that the question is tantamount to "Do you wish to be tried?" In other quarters this question has received another solution, and has been paraphrased thus—"Are you guilty or not guilty, according to the laws of the land, which demand certain particulars to constitute the offence, and evidence to prove them?" The difficulty seems to be to make clear to the prisoner's mind that there can be a distinction between the forensic meaning of the words and their acceptance in ordinary language. Having thus noticed the different meanings given to this plea, the reverend gentleman alludes more particularly to the evils arising to the prisoners from this mode of arraignment. He continues:—

"In the first place, I will suppose the prisoner guilty of the charge made in the indictment. The plea must be 'guilty' or 'not guilty.' Take the former. His plea may be made from various motives: it may arise from an honest conviction of having committed the offence laid to his charge. But here there is the greatest danger to the just administration of the law. The prisoner may misunderstand the indictment. Indeed, so nice are the distinctions between offences tried in criminal

courts, that the best lawyers often differ in their opinions. The judges, who always incline to the side of mercy, feel that it is dangerous to receive, without the greatest care, even the prisoner's confession of guilt, and therefore so frequently give them an opportunity to reconsider their plea of guilty, and sometimes advise them to retract it, and plead not guilty. Should this permission or advice avail to the retracting of the plea of guilt, it can hardly be expected that the jury should immediately forget, and be so regardless of, the prisoner's confession as to be able to give an unbiassed verdict on the evidence.

"Should the plea of guilty be persisted in, then the prisoner is convicted on his own testimony, without oath or other evidence; and thus, it may be, he places in jeopardy, without sufficient grounds, his character, his freedom, or his life, through a conscientious scruple or a misconception of the crime laid to his charge; whereas, if the plea of guilty be retracted under this strong inducement at such a time, and the prisoner be acquitted, he will probably become emboldened in crime, and it may be expected that he will again become the inmate of a gaol.

"Other evils may arise to those who plead guilty, from the circumstance that some prisoners have been known to plead thus to prevent a full exposure of their crimes, and so obtain a lighter punishment. But, in consequence of these motives being known to actuate some criminals, few, if any, when they plead guilty from the purest motives, have the credit of doing so. But the guilty prisoner, who can boldly say, 'not guilty,' and confront his prosecutor and the witnesses, enjoys every privilege which the law gives: he is able to take advantage of any error in the indictment; he may be able to give an impression of his innocence by his demeanour. If convicted, he has all the benefit that falsehood and apparent innocence can obtain; but if acquitted, he approves of his own conduct, and is liable to fall into crime again.

"Now, let me suppose the prisoner guilty, and to plead not guilty. Here also evils arise. It frequently happens that as soon as a prisoner is apprehended, and charged with an offence, an attorney is engaged to prepare a brief for counsel; but should the prisoner, during the interval between his commitment and trial, have his mind at all exercised on the subject of truth, he is led to resist all convictions, and to put off all thoughts of religion, because he cannot receive the benefit of counsel unless he pleads not guilty, which may be to his conscience an untruth.

"The following cases, which came under my own observation, will shew how this question operates on the consciences of prisoners, and what injuries they receive from being obliged to plead guilty or not guilty. Two lads were committed to take their trial for felony. As the separate system was pursued in the prison in which they were confined, they were unable to communicate with each other while awaiting their trial. One of these lads became very seriously impressed, and deeply concerned about his eternal interests. Frequently, during the night, he was known to pray most fervently, when he was heard to confess his crime: to pray for his accomplice and all the prisoners: to implore blessings on the officers, the governor, and chaplain. No one could doubt his sincerity. A short time before his trial the chaplain told him that he should admit those prisoners to the Sacrament of the Lord's Supper that appeared in a proper state of mind. As he manifested a desire to partake of this ordinance, the chaplain proceeded to ask him some plain questions, such as, 'Do you heartily repent you of your sins past?' 'Do you steadfastly purpose to lead a new life?' The prisoner, on being asked these questions, in a pensive mood walked about his cell, looking on the floor; and, in great excitement, exclaimed,



'I must plead not guilty.' The chaplain then remarked that he never wished to enter into conversation with prisoners before trial on the subject of their pleading. On another occasion he exclaimed, 'What must I do? If I plead guilty, I certainly shall be transported.' This conflict in the prisoner's mind was extremely painful for the chaplain to witness, and the state of the law placed the latter in a very trying position. An attempt was then made to calm the prisoner's mind; and, after some conversation, he said, 'If I am to do that which is right in the sight of God, I must and will, whatever is the consequence, plead guilty.' On the day of his trial he found an opportunity of conversing with his accomplice, and the following plan was agreed upon. He knew that if he pleaded guilty, or was found guilty by the jury, a former conviction for felony would be proved against him, and would place him in the greatest danger of being transported; but against his accomplice there was no former conviction; and, therefore, if he should plead guilty, a short imprisonment would probably be the punishment inflicted upon him. Knowing this, they determined that the one who was in danger of transportation should plead not guilty, and the other guilty. When the chaplain, who happened to be in the court at the time, heard this, he was not less grieved than surprised at the way in which these prisoners pleaded. During the trial, the one again and again asserted his innocence in support of his plea; and the other wished to take all the blame on himself, and to be considered the only guilty party. This led the judge and jury to take a favourable view of the former case, and a verdict of not guilty was given, on which the prisoner was discharged. The other, who pleaded guilty, was sentenced to one month's imprisonment, with hard labour. Thus a guilty prisoner was acquitted, and incalculable mischief was done to the soul of a young man whose conduct had been such as to raise the hope of his thorough reformation. The lad who was acquitted was not long afterwards again committed to take his trial on another charge of felony. Thus the reformation of the prisoner was hindered; and to his disregard of truth, while his conscience was awakened, I feel that I am quite justified in attributing his subsequent miseries.

"Another instance of this kind that came under my observation was as follows:—A prisoner, previous to trial, again and again alluded to her being guilty of the offence laid to her charge. At her trial she pleaded not guilty, and protested her innocence. The jury found her guilty, and the recorder sentenced her to some months' imprisonment. From this time she declared she was innocent of the crime of which she had been convicted, although previously she had made no secret of her guilt. After her trial she was altered in other respects, and shewed that her conscience was troubled."

### BILLS IN PROGRESS.

#### ATTORNIES, SOLICITORS, PROCTORS, AND CERTIFICATED CONVEYANCERS BILL.

[Brought from the Lords the 20th March, 1860.]

*Abstract of a Bill intituled "An Act to amend the Laws relating to Attornies, Solicitors, Proctors, and Certificated Conveyancers."*

Sect. 1. Interpretation clause: "attorney;" "solicitor;" "registrar;" "roll of attornies and solicitors;" "Incorporated Law Society."

2. Persons having taken degrees at certain universities may be admitted after three years' service.

3. Persons having been at the Bar may be admitted after three years' service.

4. Persons having been bonâ fide managing clerks to attornies or solicitors for ten years may be admitted after three years' service.

5. Judges may make regulations for persons who have passed certain examinations before articles to be admitted after four years' service.

6. Stat. 6 & 7 Vict. c. 73, s. 6, extended to persons articulated for four years only.

7. Articles of clerkship to be produced to the registrar, and entered within three months from enrolment.

8. Judges may require examination in general knowledge, either before articles or before admission, with power to dispense therewith in special cases.

9. Judges may require an examination in legal knowledge during articles.

10. Articled clerks not to hold other office or employment.

11. Examination before admission to extend to all matters of business usually transacted or performed by attornies or solicitors.

12. Where the three, four, or five years expire in any vacation, examination may take place in term preceding such vacation.

13. Persons not to be admitted in palatine courts without examination.

14. Officers having custody of rolls of attornies and solicitors to transmit to registrar copies of enrolments at the end of each term.

\* Registrar's certificates to be made the stamped certificates of the Commissioners of Inland Revenue.

\* The amount of stamp duty to be determined by the place of business.

\* The declaration, on applying for the registrar's certificate, to be in duplicate, and one copy to be left with the commissioners. Fees for registrar's certificate and for the examinations.

\* Certificate to be entered with the registrar; the commissioners to supply particulars where stamped before the 2nd January. Where stamped before the 1st January, certificate to be produced by the party, to be entered within a month.

\* When certificate to bear date, and when to determine. Law List to be primâ facie evidence.

\* In case of neglect for a year to renew certificate, order of court or judge necessary.

15. Rule for striking attornies off the roll to be entered with the registrar.

16. An attorney struck off the roll of one of the courts to be struck off the rolls of other courts.

17. Penalty for wrongfully acting as an attorney or solicitor.

18. Attornies, solicitors, and proctors may be justices of the peace for counties, but not act professionally in certain cases.

19. The amount certified on taxation to carry interest if not paid within three months.

20. Power to Court of Chancery to order payment of interest on costs in certain cases.

21. Lien for costs on property recovered, subject to the discretion of the court.

22. Provision for costs in matters of lunacy in case of death.

23. All future authorities to administer oaths or take acknowledgments to be registered.

24. Provisions for registration of existing authorities.

25. How orders, &c. authorised by this act may be made.

26. Saving provisions enabling other than attornies to act.

\* Stamped certificates not to be issued to conveyancers under the Bar without the Benchers' annual permission.

27. Act to extend to England and Wales.

28. Stat. 6 & 7 Vict. c. 73, and this act to be construed together.

Schedules.

#### COURT OF CHANCERY BILL.

*Abstract of a Bill intituled "An Act to make better Provision for the Relief of Prisoners in Contempt of the High Court of Chancery, and Pauper Defendants; and for the more efficient Dispatch of Business in the said Court."*

Sect. 1. The Queen's Prison to be visited quarterly by chief clerk.

2. Prisoners and other persons may be examined on oath.

3. Court may direct reference as to poverty of prisoners.

\* These clauses are proposed to be inserted in committee.

- \* Additional salary to solicitor to Suitors' Fund.
- \* Expenses incurred for prisoners and pauper defendants to be paid out of Suitors' Fund.
- 4. Gaolers to make reports to Lord Chancellor of all Chan-  
cery prisoners.
- 5. Powers to make General Orders.
- 6. Custody of deeds under the care of late Masters.
- 7. Appointment of additional chief clerk to the Master of  
the Rolls.
- 8. Power to appoint junior clerks.
- 9. Power to transfer such chief clerk and junior clerks to  
any of the Vice-Chancellors.
- 10. Duties, &c. of clerks under this act.
- 11. By whom orders under this act are to be made.

**COURT FOR DIVORCE AND MATRIMONIAL CAUSES.**  
(LORD CHANCELLOR).

*Bill to amend the Procedure and Powers of the Court for  
Divorce and Matrimonial Causes.*

Be it enacted &c. as follows:—

Sect. 1. It shall be lawful for the Judge Ordinary of the Court for Divorce and Matrimonial Causes alone to hear and determine all matters arising in the said court, and to exercise all powers and authority whatever which may now be heard and determined and exercised respectively by the full court, or by three or more judges of the said court, the Judge Ordinary being one; or where the Judge Ordinary shall deem it expedient, in relation to any matter which he might hear and determine alone by virtue of this act, to have the assistance of one other judge of the said court, it shall be lawful for the Judge Ordinary to sit and act with such one other judge accordingly, and, in conjunction with such other judge, to exercise all the jurisdiction, powers, and authority of the said court.

2. Provided always, that the Judge Ordinary may, where he shall deem it expedient, direct that any such matter as aforesaid shall be heard and determined by the full court; and in addition to the cases in which an appeal to the full court now lies from the decision of the Judge Ordinary, either party dissatisfied with the decision of such judge sitting alone in granting or refusing any application for a new trial, which by virtue of this act he is empowered to hear and determine, may, within — after the pronouncing thereof, appeal to the full court, whose decision shall be final.

3. Where there is a right of appeal to the House of Lords from the decision of the full court there shall be the like right of appeal to the said House from the decision of the Judge Ordinary alone, or with any other judge, under this act.

4. The sittings of the full court shall be holden during the first six days of sitting in each term, and the judges of the Courts of Queen's Bench, Common Pleas, and Exchequer shall, by a rota or otherwise, as they deem most convenient, make provision for the attendance of the requisite number of such judges to make, with the Judge Ordinary, a full court during such six days in each term; and sect. 2 of the act of the last session of Parliament, cap. 61, shall be repealed.

5. Where only one of the parties to any matter before the court shall appear, it shall be lawful for the court, if it shall see fit, to order her Majesty's proctor to instruct counsel to argue before the court any question in relation to such matter, and which the court may deem it necessary or expedient to have fully argued.

6. And whereas, by sect. 45 of the act of the session holden in the 21 & 22 Vict. c. 85, it was enacted, that "in any case in which the court should pronounce a sentence of divorce or judicial separation for adultery of the wife, if it should be made to appear to the court that the wife was entitled to any property, either in possession or reversion, it should be lawful for the court, if it should think proper, to order such settlement as it should think reasonable to be made of such property, or any part thereof, for the benefit of the innocent party, and of the children of the marriage, or either of them:" the said enactment shall extend, and be deemed to have extended, to authorise the court to order the settlement, for the purposes therein mentioned, of any estate, right, or interest whatsoever of the wife in any property settled, or agreed to be settled, by any person whomsoever, and to authorise the

\* These clauses are proposed to be inserted in committee.

court to order, for the purposes aforesaid, the exercise, release, or extinction of any powers whatsoever which might have been exercised by or for the benefit of the wife over or in respect of such property; and after the pronouncing of a final decree of divorce or judicial separation, any instrument executed pursuant to any order of the court made under the said enactment before the passing of this act, or under such enactment as amended by this act, shall be deemed valid and effectual in the law, notwithstanding the existence of the disability of coverture at time of the execution thereof.

The question has been raised as to the liability of volunteers in uniform to pay tolls on the metropolitan bridges. Toll was lately demanded of some of the Inns-of-Court Volunteers, both at Waterloo and Vauxhall Bridges, which led in one or two instances to considerable discussion, and very nearly to a breach of the peace. It will, therefore, be useful to call attention to the Vauxhall Bridge Act, 49 Geo. 3, (local), c. cxlii, s. 97, which is as follows:—"Provided always, and be it enacted and declared, that no toll whatsoever shall be demanded or taken for any horse, beast, cattle, or carriage, of whatever description, employed or to be employed" on public service as therein mentioned, "or for any volunteers upon their march, or upon duty, or in going to or returning from the place appointed for and on the days of exercise, or for any horse, mare, or gelding furnished by, or for, or belonging to any corps of yeomanry or volunteer cavalry, and rode by them in going to or returning from the place appointed for and on the days of exercise, provided that such persons be dressed in the uniform of their respective corps, and have their arms, furniture, and accoutrements, according to the regulations provided for such corps respectively, at the time of claiming such exemption as aforesaid; . . . and if any person shall claim and take the benefit of any of the exemptions by this act granted, from the whole or any part of the several tolls hereby authorised to be taken, not being entitled to the same, such person or persons, for every such offence, shall forfeit and pay any sum (not exceeding 5*l.*) to be recovered and applied as other penalties are by this act directed to be recovered and applied." This section is repeated almost verbatim in the Waterloo Bridge Act, 49 Geo. 3, (local), c. cxci, s. 108, and in the Chelsea Suspension Bridge Act, 9 & 10 Vict. c. 39, s. 74.—*Solicitors' Journal.*

**MEETINGS.**

*William Henry Lidbetter*, Tunbridge Wells, Kent, corn dealer, April 20 at 2, London, aud. ac.—*George Clarke*, Streatham-place, Brixton-hill, Surrey, carpenter, April 20 at half-past 11, London, aud. ac.—*Thomas Buckland*, Queen-hith, City, wine merchant, May 3 at 11, London, div.—*James Lomax*, Deansgate, Bolton, Lancashire, tailor, May 2 at 12, Manchester, div.—*Henry Render*, Manchester and Newton Heath, Lancashire, oil merchant, May 2 at 12, Manchester, div.

**CERTIFICATES.**

*To be allowed, unless Cause be shown to the contrary on or before the Day of Meeting.*

*George Gynne*, Wardour-street, Soho, Middlesex, cabinet maker, May 3 at 11, London.—*George Daft*, New Lenton, Nottinghamshire, lace manufacturer, May 1 at half-past 11, Nottingham.—*Joseph Atherley*, Mountsattel, Leicestershire, apothecary, May 1 at half-past 11, Nottingham.

*To be granted, unless an Appeal be duly entered.*

*James Wm. Sumner*, Reigate, Surrey, builder.—*Robert Thomas Couling*, Princess-road, Lambeth, Surrey, omnibus proprietor.—*Thomas Foreman* and *Thomas Johnson*, Eversham, Kent, carpenters.

**PARTNERSHIP DISSOLVED.**

*Adlard Welby* and *Abraham Augustus Flint*, Uttoxeter, Staffordshire, attornies and solicitors.

**SCOTCH SEQUESTRATIONS.**

*James Napier*, Stirling, coal agent.—*Roderick Dempster*, Forres, Elginshire, surgeon.

**BEST'S PRINCIPLES OF EVIDENCE.**

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**HENRY PYKE**, Newcastle-place, Edgware-road, Middlesex, tailor, April 28 at half-past 12, and May 25 at 12, London: Off. Ass. Stansfeld; Sol. Carpenter, 3, Elm-court, Temple, London.—Pet. f. April 11.

**THOMAS INNOCENT**, Bedford-street, Covent-garden, Middlesex, wholesale and retail grocer, (now a prisoner for debt in the Debtors Prison for London and Middlesex), April 25 at half-past 12, and May 23 at 2, London: Off. Ass. Stansfeld; Sols. J. & J. H. Linklater & Co., 7, Walbrook, London.—Pet. f. April 2.

**HENRY TURNER**, Rotherhithe-wall, Rotherhithe, Surrey, grocer; April 28 at half-past 1, and May 21 at 12, London: Off. Ass. Pennell; Sol. Cattlin, 22, Ely-place, Holborn.—Pet. f. April 3.

**JOHN ASHBY**, Carlisle-st., Soho-square, Middlesex, builder, April 25 at 12, and May 21 at 1, London: Off. Ass. Pennell; Sols. Fraser & May, 78, Dean-street, Soho.—Pet. f. April 12.

**CHARLES FRANK BOYCE**, late of Epsom, Surrey, livery-stable keeper, but now of Melton Mowbray, Leicestershire, innkeeper, April 26 at 11, and May 24 at 2, London: Off. Ass. Bell; Sols. J. & J. H. Linklater & Co., 7, Walbrook, London.—Pet. f. April 13.

**MATTHIAS EDWARD BOWRA**, Birmingham, manufacturer of patent elastic beds, (now a prisoner in Warwick Gaol), May 3 and 24 at 11, Birmingham: Off. Ass. Kinnear; Sols. Reece, Birmingham; Tuke & Valpy, 31, St. Swithin's-lane, London.—Pet. d. March 28.

**JOHN WILLIAMS**, Horsley Heath, Tipton, Staffordshire, chemist, May 3 and 24 at 11, Birmingham: Off. Ass. Kinnear; Sols. E. & H. Wright, Birmingham; Barnea, Tipton.—Pet. d. April 5.

**JOSEPH EDWARD MORRIS**, Bristol, grocer, April 23 at 11, and May 21 at 11, Bristol: Off. Ass. Acraman; Sol. Henderson, Bristol.—Pet. f. April 5.

**NICHOLAS MALE GROSE**, Wadebridge, Cornwall, wine merchant, April 25 and May 30 at 12, Exeter: Off. Ass. Hirtzel; Sols. Blahop & Pitts, Exeter.—Pet. f. April 11.

**JOSEPH BALMFORTH BOOTH**, Elland, Yorkshire, draper, April 30 at 11, and May 21 at 12, Leeds: Off. Ass. Hope; Sols. Norris & Foster, Halifax; Upton & Yewdall, Leeds.—Pet. d. April 11.

**GEORGE ROYLE**, Sutton, near St. Helens, Lancashire, flint-glass manufacturer, April 24 and May 15 at 11, Liverpool: Off. Ass. Morgan; Sols. Haddock, St. Helens; Evans & Co., Liverpool.—Pet. f. April 3.

**ELIZA EASTWOOD**, Manchester, wholesale fruiterer, April 25 and May 17 at 12, Manchester: Off. Ass. Hernaman; Sols. Heath & Son, Manchester.—Pet. f. April 4.

## MEETINGS.

*John Marshall*, Reading, coal merchant, April 26 at 11, London, aud. ac.—*Japheth Barton*, Landport, Portsea, brewer, April 26 at 11, London, aud. ac.—*Shrewsbury Gifford*, Newport, Essex, corn dealer, May 1 at 1, London, and. ac.—*George Niner*, Union-street, Spitalfields, Middlesex, wholesale clothier, April 25 at 11, London, aud. ac.—*James Lomax*, Bolton, Lancashire, tailor, April 24 at 12, Manchester, and. ac.—*Henry Render*, Manchester and Newton Heath, Lancashire, oil merchant, April 25 at 12, Manchester, aud. ac.—*Thomas Clark*, Bradford, Yorkshire, paper merchant, April 26 at 11, Leeds, aud. ac.—*George Crooks*, Leeds, Yorkshire, grocer, April 26 at 11, Leeds, aud. ac.—*Edward Postill*, York, druggist, April 26 at 11, Leeds, aud. ac.—*William Baker*, Kingston-upon-Hull, cattle-food manufacturer, May 9 at 12, Kingston-upon-Hull, and. ac. and div.—*William Priest* the elder, Welton, Yorkshire, shipowner, April 25 at 12, Kingston-upon-Hull, aud. ac.; May 9 at 12, div.—*William Bingham*, Great Grimsby, Lincolnshire, auctioneer, April 25 at 12, Kingston-upon-Hull, aud. ac.; May 9 at 12, div.—*Samuel George Kidd*, Kingston-upon-Hull, seed crusher, April 25 at 12, Kingston-upon-Hull, aud. ac.; May 9 at 12, div.—*Edward John Williams*, Upper East

Smithfield, Middlesex, shipowner, May 4 at 1, London, div.—*Maria Lawrence*, Lambeth-walk, Lambeth, Surrey, tailor, May 4 at 1, London, div.—*Edward Triggs* and *William Triggs*, Southampton, upholsterers, May 4 at 11, London, div.—*Nathaniel Morrish*, Holy Trinity, Shaftesbury, Dorsetshire, farmer, May 7 at half-past 11, London, div.—*Wm. Smedley*, York, grocer, May 4 at 11, Leeds, div.—*Edward Burkinshaw* and *William Hudson*, Knarsborough and Wetherby, Yorkshire, curriers, May 4 at 11, Leeds, div.—*Richard Day* and *Thomas Day*, Goole, Yorkshire, shipbuilders, May 4 at 11, Leeds, div.—*Francis Scatfe*, Sheffield, Yorkshire, cutlery manufacturer, May 5 at 10, Sheffield, div.

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*George Hayman*, Portsmouth, Southampton, licensed victualler, May 10 at 11, London.—*J. M. Evely*, Great Portland-street, Middlesex, saddler, May 4 at half-past 11, London.—*Abraham Davis*, Camden-terrace, Camden-town, Middlesex, commission agent, May 4 at half-past 11, London.—*Christopher Storry*, Aldershot, Hampshire, and Farnham, Surrey, fishmonger, May 4 at 11, London.—*J. Slater*, Small Heath, near Birmingham, retail brewer, May 4 at 11, Birmingham.—*Edwin Hyett*, Worcester, baker, May 4 at 11, Birmingham.

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## BANKRUPTS.

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**MATTHEW SHIELD**, Great Queen-street, Westminster, shipowner, April 30 at 1, and May 28 at 12, London: Off. Ass. Pennell; Sol. Dalton, 3, Bucklersbury, London.—Pet. f. April 16.

**JOHN ROBERT ROBERTS**, Crispin-street, Spitalfields, Middlesex, potato salesman, May 1 at half-past 2, and May 29 at 1, London: Off. Ass. Edwards; Sol. Wellborne, 17, Duke-street, London-bridge, Southwark, Surrey.—Pet. f. April 14.

**SAMUEL PARRY**, Queen-street, Cheapside, City, and Midway-park, Islington, Middlesex, boarding-house keeper, May 1 at 2, and May 29 at 12, London: Off. Ass. Lee; Sols. Fraser & May, 78, Dean-st., Soho.—Pet. f. April 14.

**RICHARD TURNER**, Stoke-upon-Trent, Staffordshire, cabinet maker, April 30 and May 21 at 11, Birmingham: Off. Ass. Whitmore; Sols. Glover, Stoke-upon-Trent; James & Knight, Birmingham.—Pet. d. April 11.

**WILLIAM BRETTELL**, Oldbury, Worcestershire, plumber, May 4 and 24 at 11, Birmingham: Off. Ass. Kinnear; Sols. Hodgson & Allen, Birmingham; Hinchliffe & Hooper, West Bromwich.—Pet. d. April 7.

**JOHN M'ALPINE**, Cheltenham, Gloucestershire, ironmonger, May 1 and June 4 at 11, Bristol: Off. Ass. Acraman; Sols. Pruen, Cheltenham; Abbot & Co., Bristol.—Pet. f. April 14.

**JOSEPH LINLEY**, Sheffield, Yorkshire, manufacturer of sheep shears, April 28 and June 2 at 10, Sheffield: Off. Ass. Brevin; Sols. Smith & Burdekin, Sheffield.—Pet. d. and f. April 11.

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THE JURIST.

LONDON, APRIL 21, 1860.

IN these days of general decorum and temperance it does not often happen that we have to record the fact of two of our Courts being in direct antagonism—the fact of one of the highest Courts of our realm being checkmated by the quiet but effectual defiance of a Court of inferior jurisdiction. Such an event has nevertheless lately occurred; and, as no great damage has been done, we hardly know whether we ought to be scandalised or amused when we find one of the disputants, and that disputant the discomfited one, to be no less a personage than the Lord High Chancellor of Great Britain.

The circumstances are briefly these:—One Dyson, an insolvent debtor, having petitioned the Insolvent Court, a vesting order was made on the 1st December, 1849. By an indenture dated the 8th July, 1850, Dyson assigned to Robert Cook certain property, subject to the payment of his (Dyson's) debts, and in the year 1853 again became insolvent. On the 6th August, 1855, Mr. Commissioner Law made an order reciting that the fund in court under the first insolvency exceeded the amount required to pay all debts and costs, and that there were various claimants of the surplus, and directing those parties to attend and exhibit the grounds of their claims; and that Mr. Cook should exhibit the original instruments and accounts on which he relied, and produce a specific account, in

debtor and creditor form, with the dates of all transactions between him and Dyson from the 14th March, 1850, to the 16th March, 1853, verified by affidavit. The before-mentioned indenture, and its execution, were proved in the Insolvent Court. By a subsequent order, dated the 12th July, 1856, reciting, that, after paying the debts under the first insolvency, a considerable sum remained in court, and that there were different claimants—first, Mr. Cook, who claimed the whole under the deed made to him; secondly, a similar claim by other persons; and, thirdly, a claim by the assignee for the creditors under the second insolvency in 1853—it was ordered that all parties interested should be at liberty to attend and deliver their claims. Mr. Cook accordingly attended, and, after shewing that the deed of assignment to him was long prior to the second insolvency, demanded a vesting order, and payment to him of the money in court; but the commissioner refused to do this, or act on the deed, and insisted upon inquiring into the validity of the deed, the consideration given for it, and the rights of other persons who made claims subsequent to it in point of date; against which course of proceeding Mr. Cook protested.

In furtherance of his protest Mr. Cook applied for and obtained from the Court of Chancery a writ of prohibition, prohibiting the Insolvent Court from adjudicating on, or dealing with, the surplus fund in court, except so far as was necessary in order to give effect to the before-mentioned deed of transfer to Mr. Cook. But the commissioner refused to make an order for vesting

the surplus fund in Cook, or to make any order at all; at the same time saying that, but for the prohibition, he would have ordered the fund to be vested in the assignee under the second insolvency.

Mr. Cook thereupon applied to the Court of Queen's Bench, of which Lord Campbell was then Chief Justice, for a writ of mandamus, to be directed to William John Law, Esq., the chief commissioner of the Court for the Relief of Insolvent Debtors in England, commanding him to make an order for the payment to Mr. Cook of the said sum of money in court. But the rule, having been granted in the first instance with reluctance, was on the 31st January, 1857, discharged, with costs, on the ground that the duty of the commissioner was judicial, and not merely ministerial.

Nothing daunted, Mr. Cook went back to the Court of Chancery, and on the 22nd May, 1857, filed a bill against the provisional assignee and the other claimants upon the surplus estate, praying that he might be declared entitled to the fund, and that the assignee might take proceedings for the purpose of transferring it to him. Sir J. Stuart, V. C., made an order declaring that the fund was well assigned, and Cook entitled to it; and on appeal this order was confirmed. A copy of the decree was given to the Insolvent Court, and an application made to it for an order vesting the fund in Cook. But the Court refused to make any order.

Again, in his trouble, Mr. Cook flew back to his friends in Chancery, and on the 19th July, 1859, presented a petition before Lord Chancellor Campbell and the Lords Justices, praying that the provisional assignee should be ordered to bring the fund into court. The assignee represented, that, the estate being under the control of the Insolvent Court, he could not do this without its order; and the petition was therefore dismissed, but without costs. The Lord Chancellor, however, said, that the title of Cook having been confirmed by the decree of the Court of Chancery, the duty of the commissioner had become ministerial, and that, under the altered circumstances, an application should be made to the Court of Queen's Bench for a mandamus.

"Now," thought Mr. Cook, "armed as I am with the authority of the learned judge who presided over the Court of Queen's Bench when it formerly refused my application, I am at last secure;" and on the 30th January in this year, with the confidence of a man supported by authority, and with the eagerness of hope deferred, he renewed his application to the Queen's Bench. But, alas! so impressed were the learned judges of that Court with the soundness of the previous decision, and with the unaltered position of matters, that, with the greatest respect for the Lord Chancellor's opinion, and a polite doubt as to the sound discretion of the learned commissioner, they would not even grant a rule to shew cause. And thus, at a most vexatious expense of time, temper, and money, has Mr. Cook been taught the lesson, that not all the law in the world, nor the highest legal opinion in the realm, can prevail against a petty Court jealous of its jurisdiction, and standing up for its dignity.

The Queen has been pleased to direct letters-patent to be passed under the Great Seal, giving and granting the office of one of the Barons of her Majesty's Court of Exchequer to James Plaisted Wilde, Serjeant-at-Law.

## Correspondence.

### ASSIGNMENT OF PERSONALTY UNDER LORD ST. LEONARDS' ACT.

TO THE EDITOR OF "THE JURIST."

SIR,—I have just prepared a draft transfer of a mortgage in fee from two surviving trustees to them and a new trustee. In this I have conveyed the mortgaged property, habendum to the new trustee, to the use of the old and new trustees; and, under the impression that Lord St. Leonards' Act of last session authorised me, I assigned the mortgage debt from the two old trustees to the three old and new habendum et recep-tum accordingly.

Before giving out the draft for ingrossment, I turn once more to the act, and find that the "assignment to self and others," sec. placitum, comprises only "personal property now by law assignable;" and as it occurred to me that a mortgage debt was not by law assignable, I suppose I must call in the intervention of the provisional trustee, who I thought had sought, in another sphere, the congenial society of Richard Roe and other mighty shades.

Before finally abandoning the perusal of the act, I turned to the end, and then to the beginning of it, to see if there were any interpretation clause, which, by declaring that the negative should, where necessary, be taken as the affirmative &c., might assist me a little; but all was barren.

I do not know whether this point has been noticed by your readers, and that I have only found a mare's nest; if so, consign this communication to the Balaam box. If you think it is new, it will no doubt be judicious to lay it before them, either in this or some other form. Yours obediently, F.

Manchester, April 12, 1860.

[The circuity of assigning to a third person, in order that he might re-assign to the first assignee jointly with others, was never necessary in dealing with equitable interests, because any declaration of intention is, in equity, equivalent to the most formal assignment. If, therefore, the mortgage debt is only assignable in equity, an assignment to the assignor and others will operate, independently of the act, as far as it is possible to deal with the debt.—ED.]

## JURIES.

In a recent article upon the Common-law Commissioners' Third Report we noticed that they again invite attention to the propriety of securing the attendance on common juries of the class of persons who now serve exclusively on special juries; and we also remarked that we had been unable to discover in Lord Campbell's bill any clause grounded on this part of the report. The omission may, perhaps, be accounted for without assuming any difference of opinion to exist between the framers of the bill and the commissioners. They do not suggest that any amendment of the law is necessary on this point, but only that the existing law should be enforced in practice. The subject is of great importance to the community; and all that is required to effect a valuable reform here lies within the power of attorneys. Will they now avail themselves of the opportunity which yet remains of obtaining credit for working out what is required of themselves? A few words will make our meaning clear. By the act of 6 Geo. 4 c. 50, s. 1, it is provided—"That every man, (except as thereafter excepted), between the ages of twenty-one years and sixty years, residing in any county in England, who shall have in his own name, or in trust



for him, within the same county, 10*l*. by the year above reprises, in lands or tenements, whether of freehold, copyhold, or customary tenure, . . . or who shall have within the same county 20*l*. by the year above reprises, in lands or tenements, held by lease or leases for the absolute term of twenty-one years, or some longer term, . . . or who, being a householder, shall be rated or assessed to the poor rate, or to the inhabited house duty, in the county of Middlesex, on a value of not less than 30*l*., or in any other county on a value of not less than 20*l*., or who shall occupy a house containing not less than fifteen windows, shall be qualified, and shall be liable, to serve on juries for the trial of *all issues* joined in any of the king's courts of record at Westminster, . . . and in all courts of assize, nisi prius, oyer and terminer, and gaol delivery, . . . and shall also be qualified and liable to serve on grand juries in courts of sessions of the peace, and on petty juries, for the trial of *all issues* joined in such courts of sessions of the peace."

Sect. 30 of the same act provides that the Courts may order special juries. Sect. 31 provides that persons described in the jurors' book as esquires or persons of higher degree, or as bankers or merchants, shall be qualified and liable to serve on special juries; and sect. 35 gives an implied permission to persons serving upon special juries to take for such service such sum of money as the judge who tries the issue shall think just and reasonable, not exceeding 1*l*. 1*s*., except in cases wherein a view is directed.

No reasonable man can seriously doubt that the liability imposed by sect. 31 upon esquires, bankers, and merchants is to be understood cumulatively with reference to the liability imposed by sect. 1. The language of the latter section is sufficiently clear to establish this proposition; but the permission accorded by sect. 35, to persons serving on special juries alone, of receiving a reward for their service, is certainly more than sufficient to satisfy any lingering doubt upon the point. The reason why special jurors are paid, and common jurors are not paid, is so apparent, that, but for the misapprehension which the existing jury practice justifies in those who do not know the jury law, we should deem it quite unnecessary to explain, that, in the eye of the law, service on the common jury is a duty common to all, or nearly all, of her Majesty's subjects; while service on a special jury, in the eye of the law, is an additional duty imposed on a particular class of the community, over and above the duties common to all. As the jury law is now administered, the payment of the special juror justly presents itself to the common juror's mind as a glaring and unjust anomaly. How the present practice first arose it would be interesting to know, but it is impossible to justify it. It is well for those who have not learnt, from sad experience, that the common jury, as summoned under the existing practice of the undersheriffs, is pre-eminently a class jury, and not one containing an indiscriminate admixture of all classes, as contemplated by law. It is now the practice of the undersheriffs' offices to eliminate from the list from which the common jury is selected all persons described as esquires or persons of higher degree, or as bankers or merchants. The consequence is, that our common juries are composed exclusively of retail traders or small tenant farmers, according as they are drawn from urban or rural districts. We fancy that we can trace this practice to a state of mental confusion, owing its origin to the double meaning attached to the word "common." It seems as if some undersheriff in bygone days had understood the phrase "common jury" to mean, not a general or ordinary jury, but a jury of common fellows, and had sought to carry out this view in practice, by removing from the list all whose social position was on a par with, or higher than, his own. We say, it appears as if some

undersheriff had thought and acted thus, because the undersheriffs exercise, or ought to exercise, absolute control over the summoning of juries, and it is from them that the public is entitled to demand the proper discharge of this important duty.

We commend the following passage from the Common-law Commissioners' Third Report to the careful consideration of attorneys, as well as of undersheriffs and their deputies. The commissioners say—"We think it right to avail ourselves of this opportunity to invite renewed attention to our former observations respecting the constitution of juries; more especially we would urge the consideration of that part of our recommendations which relates to securing the attendance on common juries of the class of persons who now serve exclusively on special juries, with a view to the improvement of the former, by the admixture of persons of higher education and intelligence. We are strongly persuaded that a very great improvement would, by this means, be effected in the constitution of juries; and as we do not propose to do away with the right of parties to resort to a special jury, or to deprive special jurors, when serving as such, of the additional remuneration which they are in the habit of receiving, we can see no ground why the liability of such persons to serve on common juries, which already exists in law, though it is not required in practice, should not be enforced."

We need hardly add, that we entirely agree with this recommendation of the commissioners. According to the opinion of these learned persons, the Legislature has done all that belongs to it to do towards effecting the desired object. It remains, therefore, for the judges to see that the law relating to this matter is carried out with honesty and intelligence; and here attorneys can give good aid, by calling the attention of the Bench, wherever suitable occasion offers, to the illegality and unfairness of the present system, as it affects those who are now placed on common juries, and the evils incident thereto, so far as it touches the interests of litigants.—*Solicitors' Journal*.

## Court Papers.

### EQUITY CAUSE LISTS, EASTER TERM, 1860.

\* \* The following abbreviations have been adopted to abridge the space the Cause Papers would otherwise have occupied:—A. Abated—Adj. Adjourned—A. T. After Term—Ap. Appeal—C. D. Cause Day—Cl. Claim—C. Costs—D. Demurrer—E. Exceptions—F. C. Further Consideration—F. D. Further Directions—M. Motion—M. D. Motion for Decree—P. C. Pro Confesso—Pl. Plea—Ptn. Petition—R. Rehearing—S. O. Stand Over—Sh. Short.

Before the LORD CHANCELLOR and the LORDS JUSTICES.

#### APPEALS.

Gray v. Falconer (R., Jan. 28)  
Head v. Godlee (W., Jan. 31)  
Hodgkinson v. National Livestock Insurance Co. (R., Feb. 10)  
Tatham v. Ward (Part heard)  
Full Court (S., Feb. 29)  
Hancock v. Bewley (W., Mar. 7)  
Wood v. Farthing (R., Mar. 10)  
White v. Baker (R., Mar. 19)  
Perry v. Moll (S., Mar. 22)  
Long v. Dawson (W., Mar. 22)  
Rankin v. Lay (S., Mar. 30)

Harris v. Ross (R., Mar. 30)  
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#### CAUSES, &c.

Ernest v. Croysdell (M D)  
First day of Appeals  
Walker v. Hamilton (Sp. ca.)  
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Wilson v. Rudyard (M D, part heard)  
Rudyard v. Wilson (M D)  
Pothecary v. Pothecary (M D).

Before the Right Hon. the MASTER OF THE ROLLS.

#### CAUSES, &c.

Denny v. Palmer (M D) | Johnson v. Johnson (M D)  
April 25. | Collins v. France (M D)

Millbank v. Lambert (M D)  
Wilson v. Coles (M D)  
Fullbrook v. Ilbrey (M D)  
Seymour v. Hutley (M D)  
Harcourt v. White (Cause)  
Ainslie v. Harcourt (M D,  
by order)  
Gibson v. Shaw (M D)  
Brown v. Harte (Cause)  
Kennedy v. Kelly (M D)  
Bligh v. Davies (M D)  
Wallis v. Haynes (M D)  
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Flockton v. Slee (Cause)  
Chalmers v. North (M D)  
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Weeks v. Ward (M D)  
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Palmer v. Hendrie (Cause)  
Ellis v. Harvey (M D)  
Phipps v. Child (M D)  
Jeffery v. Stephens (Cause)  
Sanders v. Ashford (M D)  
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Lancaster v. Lancaster (M D)  
Watson v. Baker (M D)  
Earl of Limerick v. Viscount  
Glentworth (Cause)  
H. Paine v. Evans (Cause)  
W. Paine v. Evans (Cause)  
Mayes v. Pocock (M D)  
Hine v. Jackson (M D)  
Harbin v. Darby (F C, Sum-  
mons)  
Ring v. Sheppard (F C)  
Laurie v. Brown (M D)  
Carter v. Drew (M D)

*Before the Vice-Chancellor Sir RICHARD T. KINDERSLEY.*

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In re Wiltshire's Es- } (F  
tate } C,  
Wiltshire v. Little } M)  
Shaw v. Johnson (Cause)  
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Eggar v. Terry }  
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Ward v. Filmer (Cause) May  
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Leathes v. Thomson (M D)  
Gover v. Towers (F C)  
Buckley v. Lapworth (M D)  
Birks v. Micklethwait (M D)  
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In re Stracey's Estate } (F C)  
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M'Lachlan v. Tait (F C)  
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Rallston v. Hall (F C)  
In re Cowling, dec. } (F C, adj.  
Cowling v. Cowling } from ch.)  
Donaldson v. Donaldson (F C)  
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Turlay v. Morris (M D)  
In re Martin's Estate } (F C)  
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Thomas v. Rawlings (M D)  
Steele v. Townson (F C)  
Coates v. Coates (M D)  
Roberts v. Robinson (F C)  
Ion v. Ashton (F C)  
Att.-Gen. v. Ewelme Alma-  
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Debary v. Debary } from ch.)  
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Guillon v. Rotch { (F C, Sum-  
mons, adj.  
Rotch v. Guillon } from  
chambers)  
Baner v. Mitford (F C)  
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Eglin v. Sanderson (Cause)  
Ramsay v. Sandeman (M D)  
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shire Banking Co. v. Neve  
(M D)  
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*Before the Vice-Chancellor Sir JOHN STUART.*

CAUSES, &c.

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Nelson v. Seaman (M D)  
Pointon v. Pointon (Cause)  
Roberts v. Davies (Cause)  
Willson v. Featherstone (M D)  
Andrews v. Lord (M D)  
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Scobel v. Keen (M D)  
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Lloyd v. Jones (M D)  
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Bonser v. Kinnear (M D)  
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Atkins v. Atkins (F C)  
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*Before the Vice-Chancellor Sir W. P. WOOD.*

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Simpson v. Fogo (D) April 16  
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part heard)  
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Patent Derrick Co. (limited)  
(D)  
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Pear v. Bownes } C)  
Gaiger v. Malkin (F C)  
Chittenden v. Lawford (F C,  
Summons to vary certif.)

Charlton v. Newcastle-upon-  
Tyne and Carlisle Railway  
Co. (M D)  
Lorkin v. London and North-  
western Railway Co. (M D)  
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def't.'s request, part heard)  
April 17  
Phippen v. Bath (F C)  
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Whalley v. Ramage (Cause)  
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Jaques v. Jaques (M D)

**Milburn v. Gregory** (M D).  
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**Milburn v. Gregory & ora.**  
(Cause) April 23  
**Hall v. Wilson** (M D, Part  
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**Fairbridge v. Bradley** (M D)  
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**Duchess of Sora v.** } May 3  
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**Parmiter v. Par-** } Summons  
**minter** } to vary  
} certific.  
**Pembroke v. Friend** (F C)  
**Parmiter v. Parmiter** (Cause)  
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**Appleyard v. Monro** (F C)  
**Laird v. Birkenhead Railway**  
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case)  
**Swainson v. Dobson** (F C)  
**Cleave v. Hillhouse** (M D)  
**Moffat v. Money** (Cause)  
**Gover v. Mathews** (M D)  
**Hodder v. Tarte** (Cause)  
**Spencer v. Locke** (F C, Sum-  
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**Standen v. Hutchings** (F C)  
**Edwards v. Williams** (Cause)  
**Woodcock v. Rowbotham** (M  
D)  
**Harrison v. Barton** (M D)  
**Llewellyn v. Barrett** (F C)  
**Swaisland v. Swaisland** (Cau.)  
**Goodyear v. Sebright** (M D)  
**Wrightson v. Calvert** (M D)  
**Barker v. Johnson** (F C)  
**Aplin v. Cates** (M D)  
**Grierson v. Aistle** (M D)  
**Williams v. Ashton** (F C)  
**Wetherell v. Thomas** (Cause)  
**Bradnell v. Richards** (M D)  
**Phippen v. Phippen** (M D)  
**Spaight v. Bymer** (Cause)  
**Perkins v. Cooke** (M D)  
**Warren v. Cutts** (Cause)  
**Bartrum v. Rudland** } (F C)  
**Rudland v. Bartrum** }  
**Farina v. Rochfort** (M D) *Sh*  
**Walker v. Page** (F C)  
**Tooth v. Newsome** (F C)  
**Windsor v. Cross** (F C, Ptn)  
**Harenc v. Brown** (M D)  
**Clarke v. Franklin** (F C)  
**Vaughan v. South Metropol-**  
**itan Cemetery Co.** (Cause)  
**Longbottom v. Gray** (Further  
hearing on eq. reserved)  
**Cottam v. Eastern Counties**  
**Railway Co.** (Cause)  
**Scott v. Miller** (Cause)  
**Footner v. Jolliffe** (M D)  
**Barrow v. Parnell** (M D)  
**Lovegrove v. Davis** (F C)  
**Coston v. Gardner** (Cause)  
**Peterson v. Maggs** (M D)  
**Descombes v. Chollet** (M D)  
**Furness v. Hunt** (F C)  
**Valentin v. Collison** (M D)  
**Wyatt v. Mostyn** (Cause)  
**Rollison v. Council of the Bo-**  
**rough of Birmingham** (M  
D)  
**Stone v. Parker** (M D)  
**Sisson v. Dobinson** (M D)  
**Deane v. Foster** (M D)  
**Williams v. Nicholls** (Cause)  
**Fraser v. Clark** (Cause)  
**Dow v. Baker** (M D)  
**Shelton v. Smith** (M D)  
**Fryer v. Mortimore** (Cause)  
**Graham v. Graham** (F C)  
**Stephenson v. Garfitt** (F C)  
**Hairby v. Keith** (Cause)  
**Campbell v. Calvert** (F C) *Sh*  
**Calvert v. Calvert** (F C) *Sh*  
**Thompson v. Whitmore** (M D)  
**Young v. Phillips** (M D)  
**Brown v. Brown** (F C).

**JOHN CULVERWELL**, Washford Mills and Williton Mills,  
Somersetshire, miller, May 9 and 30 at 12, Exeter: Off.  
Ass. Hirtzel; Sols. Head & Venn, Exeter.—Pet. f. April 4.  
**JOHN AXFORD** and **CHARLES GREENSLADE**, Bridge-  
water, Somersetshire, timber merchants, (trading under the  
firm of Axford & Co.), May 15 and June 6 at 12, Exeter:  
Off. Ass. Hirtzel; Sol. Dalton, 3, Bucklersbury, London.  
—Pet. f. March 18.  
**WILLIAM PROCTER**, Leeds, Yorkshire, linendraper, May  
4 and June 1 at 11, Leeds: Off. Ass. Young; Sols. Wood,  
Bradford; Cariss & Cudworth, Leeds.—Pet. d. April 16.  
**GEORGE TAYLOR LUND**, Manchester, commission agent,  
April 27 and May 17 at 12, Manchester: Off. Ass. Pott;  
Sols. Sale & Co., Manchester.—Pet. f. April 16.

#### MEETINGS.

*Edward George Cuff*, Leicester, hotel keeper, May 1 at  
half-past 11, Nottingham, pr. d.—*Hugh W. Corbett*, Liver-  
pool, merchant, May 10 at 11, Liverpool, ch. ass.—*Francis*  
*Ward*, Nottingham, victualler, May 15 at 11, Birmingham,  
last ex.—*Geo. Hayman*, Portsmouth, Southampton, licensed  
victualler, May 10 at 11, London, aud. ac.—*Alexander Jacob-*  
*son*, Tysoe-street, Clerkenwell, Middlesex, dealer in watches,  
April 28 at half-past 11, London, aud. ac.—*George Booth*,  
Holmes-terrace, Kentish-town, Middlesex, provision mer-  
chant, May 2 at 11, London, aud. ac.—*C. J. Sayer*, Fran-  
cis-place, Holloway, boarding-house keeper, May 2 at half-  
past 11, London, aud. ac.—*J. Jones*, Lambeth-square, Surrey,  
mantle manufacturer, May 2 at 11, London, aud. ac.—*Wm.*  
*Mynn*, Queen's Head-yard, Borough, Surrey, manure mer-  
chant, April 30 at 12, London, aud. ac.—*Samuel Underhill*,  
Wolverhampton, Staffordshire, commission agent, May 2 at  
11, Birmingham, aud. ac.—*L. Meredith*, Shrewsbury and  
Church Stretton, Shropshire, grocer, May 2 at 11, Birmingham,  
aud. ac.—*J. Herd*, Liverpool, corn merchant, April 27 at 11,  
Liverpool, aud. ac.; May 7 at 11, div.—*G. Bleackley*, Salford,  
Lancashire, common brewer, May 3 at 12; Manchester, aud.  
ac.; May 10 at 12, div.—*Charles Higgins*, Salisbury, Wilt-  
shire, brewer, May 10 at 11, London, div.—*John Harrison*,  
Page's-walk, Bermondsey, Surrey, builder, May 10 at 12,  
London, div.—*Jacob Montefiore* and *Joseph B. Montefiore*,  
George-street, Mansion-house, London, merchants, May 9 at  
11, London, div.—*John G. Leeman*, Ilkeston, Derbyshire,  
draper, May 10 at half-past 11, Nottingham, aud. ac. and div.  
—*James Haywood*, Derby, ironfounder, May 10 at half-past  
11, Nottingham, div.—*Henry Smith* and *Henry Mills*, Chees-  
ter, newspaper proprietors, May 9 at 11, Liverpool, div.

#### CERTIFICATES.

*To be allowed, unless Cause be shown to the contrary on or  
before the Day of Meeting.*

*Charles Jones* the younger, Margaret-street, Cavendish-  
square, and Great Castle-street, Regent-street, Middlesex,  
coachbuilder, May 9 at 12, London.—*Alfred Charles Ayres*,  
Ramsgate, Kent, surgeon, May 9 at 1, London.—*C. Marson*  
the elder, Leominster, Herefordshire, innkeeper, May 10 at  
11, Birmingham.—*Henry Clemerson*, Loughborough, Lei-  
cestershire, ironmonger, June 5 at 11, Nottingham.—*John*  
*R. Williams*, Sandbach, Cheshire, ironmonger, May 9 at 11,  
Liverpool.

*To be granted, unless an Appeal be duly entered.*

*Thomas Taylor*, High Holborn, Middlesex, milliner.—  
*Edward Harris*, Folkestone, Kent, tailor.—*Wm. Chelwe*,  
Point, near Truro, Cornwall, commission agent.—*Wm. J.*  
*Webber*, Teignmouth, Devonshire, baker.—*Edward E. Hill*,  
Liverpool, merchant.—*Thomas Davies* and *Thomas Edward*  
*Davies*, Wednesfield, Staffordshire, ironmasters.—*Thomas*  
*Buss*, Market Harborough, Leicestershire, chemist.

#### PETITION ANNULLED.

*Thomas J. B. Wallis*, Colchester, Essex, draper.

#### SCOTCH SEQUESTRATIONS.

*Peter Johnston*, Herdhill, Polmont, Stirlingshire, grocer.  
—*James Oatt*, Johnstone, Renfrewshire, joiner.—*Archibald*  
*M'Kellar*, Ballamenach, Loch Aweide, Argyllshire, farmer.  
—*James Boston*, Airdrie, Lanarkshire, fisher.—*J. London*,  
Glasgow, spirit merchant.—*Alexander Hay*, Stockley, Mort-  
lach, Banffshire, farmer.—*John G. Hopkirk*, deceased, Edin-  
burgh, writer to the signet.

#### EXCHEQUER CHAMBER.

ERRORS from the Court of Queen's Bench will be  
taken on the 9th and 10th May; from the Court of Ex-  
chequer on the 11th, 12th, and 14th May; and from the  
Court of Common Pleas on the 16th May.

COMMISSIONERS to ADMINISTER OATHS IN CHANCERY.—  
The Lord Chancellor has appointed the following gen-  
tlemen to be Commissioners for administering oaths in  
the High Court of Chancery in England:—*George*  
*Christopher Roberts*, of Kingston-upon-Hull; *William*  
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ALEXANDER WAITE, Berwick-upon-Tweed, draper, April 26 at half-past 11, and May 8 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Harle & Co., Newcastle-upon-Tyne, and 20, Southampton-buildings, Chancery-lane, London.—Pet. f. April 14.

## MEETINGS.

John M. Wintle, Drury-lane, Middlesex, silversmith, May 2 at 11, London, ch. ass.—W. P. Waghorn, Tatsfield, Surrey, grocer, May 2 at 12, London, last ex.—Charles Pavia, Lime-street, City, merchant, May 2 at 1, London, last ex.—Henry Hobbs, Woburn, Buckinghamshire, common brewer, May 2 at 2, London, last ex.; at half-past 2, aud. ac.—F. Mayston, Huddersfield, Yorkshire, grocer, May 4 at 11, London, aud. ac.—Stephen Lampard, Portsea, Hampshire, plumber, May 2 at half-past 11, London, aud. ac.—William Ellis, Pennyfields, Poplar, Middlesex, ship joiner, May 4 at half-past 12, London, aud. ac.—David L. Lewis, Salters' Hall-court, Cannon-street, City, merchant, May 4 at 12, London, aud. ac.—John Peto and John Bryan, Dacre-street, Westminster, Middlesex; Liverpool; and Willow-walk, Bermondsey, Surrey, army contractors, May 3 at 12, London, aud. ac.; May 11 at half-past 11, div.—Edward Triggs and Wm. Triggs, Southampton, upholsterers, May 3 at 11, London, aud. ac.—William J. Sears and James Sears, Ivy-lane, Paternoster-row, City, printers, May 3 at half-past 11, London, aud. ac.; May 11 at 1, div. joint est., and div. sep. est. of James Sears.—Edward J. Williams, Upper East Smithfield, Middlesex, shipowner, May 3 at 11, London, aud. ac.—Maria Lawrence, Lambeth-walk, Lambeth, Surrey, tailor, May 3 at half-past 11, London, aud. ac.—William Mullett, Brookland, near Romney, Kent, grocer, May 3 at 12, London, aud. ac.; May 11 at half-past 11, div.—John M'Evily, Great Portland-street, Middlesex, saddler, May 3 at 11, London, aud. ac.—Richard J. Polglase, Borough-road, Surrey, and Jupp's-terrace, Commercial-road East, Middlesex, millwright, May 3 at half-past 11, London, aud. ac.; May 11 at 1, div.—Thomas Rollings, Ingram-court, Fenchurch-street, City, wine merchant, May 3 at 12, London, aud. ac.—Charles Bartels, Elmina, Africa, merchant, May 8 at 12, London, aud. ac.—E. Haskins, Shortwood, Pucklechurch, Gloucestershire, horse dealer, May 3 at 11, Bristol, aud. ac.—James Hasell, Bristol, soap manufacturer, May 3 at 11, Bristol, aud. ac.—George N. Wilkinson and Hezekiah Orvis, Harlepool, Durham, shipbrokers, May 3 at 12, Newcastle-upon-Tyne, aud. ac.—Edward Rowell, Manchester, billbroker, May 2 at 12, Manchester, aud. ac.—Wm. Smedley, York, grocer, May 3 at 11, Leeds, aud. ac.—Edward Burkinshaw and Wm. Hudson, Knaresborough and Wetherby, Yorkshire, carriers, May 3 at 11, Leeds, aud. ac.—Richard Day and Thomas Day, Goole, Yorkshire, shipbuilders, May 3 at 11,

Leeds, aud. ac.—Francis Scaife, Sheffield, Yorkshire, cutlery manufacturer, May 5 at 10, Sheffield, aud. ac.—John Argent, Fleet-street, London, licensed victualler, May 12 at 12, London, div.—Thomas H. May, Rathbone-place, Oxford-street, Middlesex, baker, May 12 at 12, London, div.—John S. Miskin, Rochester, Kent, butcher, May 12 at 12, London, div.—Henry Moss, Leeds, Yorkshire, draper, May 11 at 11, Leeds, div.

## CERTIFICATES...

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Thomas Streeter, Portsmouth, Hampshire, hotel keeper, May 17 at half-past 1, London.—Wm. Mullett, Brookland, near Romney, Kent, grocer, May 11 at half-past 11, London.—Joseph A. Crane, St. John, New Brunswick, British North America, merchant, May 12 at 1, London.—James Lane, Kingsland-place, Kingsland-road, Middlesex, mining-share broker, May 12 at 1, London.—Hansell Bailey, Cheltenham, Gloucestershire, cabinet maker, May 21 at 11, Bristol.—Henry Stephens, Exeter, innkeeper, May 16 at 12, Exeter.—Grace Keenor and Sophia Baillie, Exeter, milliners, May 16 at 12, Exeter.—Edicard Evans, Wednesbury, Staffordshire, draper, May 21 at 11, Birmingham.—Henry Collingbourne, Foleshill, near Coventry, Warwickshire, ribbon manufacturer, May 21 at 11, Birmingham.—T. Holgate, Bradford, Yorkshire, grocer, May 21 at 11, Leeds.

To be granted, unless an Appeal be duly entered.

John Moon the younger, West India-road, Poplar, Middlesex, optician.—Louise Flamant, Duke-street, Portland-place, and Somerset-street, Portman-square, Middlesex, milliner.—John S. Date, Cardiff, Glamorganshire, flour merchant.—Eliza Parry, Liverpool, timber dealer.—Joseph Bentley the elder and Joseph Bentley the younger, Liverpool, gun makers.—Raley Middlewood and John Middlewood, Leeds, Yorkshire, linendrapers.—John Craven and Thomas Craven, Rothwell, Yorkshire, glue makers.—Joseph Varley, King's Mill, near Huddersfield, Yorkshire, yarn spinner.

## PETITION ANNULLED.

Wm. John Watson, Upper Holloway, Middlesex, builder.

## SCOTCH SEQUESTRATIONS.

Alexander M'Mutrie, Glasgow, joiner.—James Brown, Edinburgh, music seller.

## TUESDAY, April 24.

## BANKRUPTS.

JOHN ENGLAND, Upper Charlotte-street, Fitzroy-square, Middlesex, photographic apparatus manufacturer, May 5 at half-past 11, and June 1 at 1, London: Off. Ass. Whitmore; Sols. Pocock & Poole, 58, Bartholomew-close.—Pet. f. April 20.

WILLIAM DANIEL HOAD, Rye, Sussex, ship builder, May 7 and June 4 at 1, London: Off. Ass. Pennell; Sols. Butler, Rye, Sussex; Lovell & Co., Gray's-inn, London.—Pet. f. April 18.

ABRAHAM HAMMOND and JOHN NEVARD, Lee, Kent, builders, May 7 at half-past 1, and June 4 at 2, London: Off. Ass. Pennell; Sol. Drew, 4, New Basinghall-street, City.—Pet. f. April 23.

JOSEPH UNDERHILL, Plymouth, Devonshire, iron-monger, May 14 and June 4 at half-past 12, Plymouth: Off. Ass. Hirtzel; Sols. Rooker & Co., Plymouth.—Pet. f. April 20.

HENRY BACH, Sheffield, Yorkshire, hosier, May 5 and June 2 at 10, Sheffield: Off. Ass. Brewin; Sol. Unwin, Sheffield.—Pet. d. April 17.

ALEXANDER WAITE, Berwick-upon-Tweed, draper, April 26 at half-past 11, and June 8 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Harle & Co., Newcastle-upon-Tyne, and 20, Southampton-buildings, Chancery-lane, London.—Pet. f. April 14.

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THE JURIST.

LONDON, APRIL 28, 1860.

THE original and sole foundation of the jurisdiction of the Court of Chancery to decree specific performance is simply this—that an award of damages at law will not give a party the compensation to which he is entitled—that is, will not put him in a situation as beneficial to him as if the agreement were specifically performed. (*Harnett v. Yeilding*, 2 Sch. & L. 553). It is upon this principle that contracts for the purchase of land will ordinarily, in the absence of some counter-vailing equity, be decreed to be specifically performed; for it is evident that damages may not compensate the purchaser for non-performance of the contract; whereas, by the decree, he gets the very thing he contracted for.

Moreover, in all cases where a Court of equity would decree specific performance in favour of a person who has contracted to purchase any estate or thing, it will entertain a suit for specific performance by the vendor, although all that he seeks is payment of the price for which he contracted.

This, however, depends upon the principle, that the remedies of both parties to a contract ought to be mutual; so that, although the vendor might obtain ade-

quate damages upon an action at law, yet, inasmuch as the purchaser could not do so, and could therefore maintain a suit in equity, the vendor would be entitled to seek relief in the same court. Indeed, we believe it may be correctly laid down as a general proposition, that whenever one of the parties to a contract may file a bill in equity for specific performance, on the ground that damages at law would not afford him adequate compensation, the other party to the contract may resort to the same Court, although the same reason is not applicable, but simply on the ground of mutuality of remedy.

We make these preliminary remarks before noticing a case of some novelty, in which the principles of the law relating to specific performance were involved, but which were not, we think, whether the decision be right or wrong, sufficiently borne in mind or considered.

The case alluded to is that of *Rogers v. Challis*, (6 Jur., N. S., part 1, p. 334), the facts of which are briefly as follows:—The defendant, through his agent, applied to the plaintiff for a loan of 1000*l.*, upon the terms of its being secured by a bill of sale of furniture, &c., and a mere deposit, or an assignment also, of a lease; the principal to be repaid by instalments, the first whereof was to be further secured by a bill of exchange,



with the acceptance by an approved person or firm. There was, moreover, to be a sufficient and available guarantie against the removal of the goods comprised in the bill of sale. After some communications between the parties the guarantie was approved of. A further correspondence then took place between the defendant's agent and the plaintiff, the one complaining of the delay, and the other of the omission to send the proper papers to prepare the assignment. In the meantime, however, the defendant obtained the necessary loan from another person upon more favourable terms. On the 14th January, 1859, the plaintiff filed a bill, praying that the defendant might be compelled to borrow 1000*l.* of the plaintiff in pursuance of the agreement made between them, or otherwise that the plaintiff might be awarded compensation or damages for the default of the defendant. The Master of the Rolls dismissed the bill, with costs, being of opinion, in the first place, that the Court had no jurisdiction to enforce the specific performance of a contract to borrow a sum of money; and, in the next place, that the 21 & 22 Vict. c. 27, did not give the Court of Chancery jurisdiction to assess damages in all cases where it might think it desirable so to do, but only in cases where the Court already has jurisdiction to grant specific performance.

With regard to the second point decided by the Master of the Rolls, we entirely concur; for there can be no doubt, upon reference to sect. 2 of the 21 & 22 Vict. c. 27, that the power to award damages conferred thereby upon the Court of Chancery is expressly confined to cases in which the Court has jurisdiction to entertain an application for an injunction, or for specific performance; and in exercise of it the Court may award damages, "either in addition to or in substitution for such injunction or specific performance."

With regard to the first point, we certainly entertain considerable doubt whether his Honor arrived at a correct conclusion, or that the reasoning by which he arrived at it will bear the test of a close examination.

In giving judgment his Honor said, "This is not a contract to purchase an article; it is not a contract to purchase a debt upon certain terms, or a contract to purchase a quantity of goods on having payment made by instalments in a particular manner; for it has been held that there may be circumstances to give the Court jurisdiction in such a case; but an ordinary contract for the sale or purchase of goods is not the subject of specific performance. This is nothing more than a proposal of one to lend and another to borrow. It is a new proposition that the Court has jurisdiction where there is a mere personal obligation created by one person saying, 'If you will lend me a sum of money, I will repay it, and give you your security,' even though the terms are settled between them. In cases of specific performance, the principle on which the Court interferes is, that the remedy at law is inadequate or defective. *But by what possibility can it be said that in this case the remedy is defective? It is a simple money demand.* The plaintiff says, 'I have sustained a pecuniary loss by your allowing my money to lie idle—by my not getting such a good investment as I could otherwise have got.' . . . If a person agrees to buy a sum of stock at a particular price, or if he agrees to lend

a sum of money at a particular rate, it is contrary to every principle which this Court has ever acted upon to say that it has jurisdiction to grant specific performance; always bearing in mind that the principle upon which this Court grants specific performance is, that the remedy at law is inadequate and defective; and also bearing in mind, as favourable to the plaintiff, the observation made by Lord Eldon, that the discretion of the Court is to be exercised according to fixed principles, and not arbitrarily."

In the first place, we can scarcely agree with the Master of the Rolls, that where a person contracts to borrow money from another, and to convey or assign to him certain estates or specific property, by way of security, there is a mere personal obligation created between them, nor why specific performance of the contract should not be decreed, just as well as in the case of a contract to purchase property. The situation of the mortgagee is analogous to that of the purchaser: he is, in effect, a purchaser pro tanto; his contract is not merely a personal one—it has reference to the property to be conveyed or assigned by way of security; nor does there appear any valid reason why, as in the case of a purchase, it should not be enforced in rem.

But then the Master of the Rolls assumes, that, in the case of a mortgage, the Court of Chancery has no jurisdiction, because it only exists where the remedy at law is inadequate or defective. But may there not be many cases, where there are contracts for the advance of money by way of mortgage of property, in which the remedy at law may be inadequate and defective? Suppose, for instance, a person contracted to lend money to another upon the security of land adjoining to his own, for a term of years—say for twenty years—at a fixed rate of interest; that the title of the land was approved of, but the borrower refused to complete the contract on his part; would damages at law give an adequate compensation to the intended mortgagee? How, in fact, would damages be assessed? Independently of the value which the intended mortgagee might attach to the particular estate offered by way of security, on account of proximity or peculiar value, (circumstances which ought to have some weight), how could the jury estimate the loss which the intended mortgagee might incur by not having a certain rate of interest for his money during the term of years agreed upon?

During that period the rate of interest might fluctuate greatly; and that being so, neither a jury nor the Court could properly—that is to say, accurately—assess the damages. It was upon this principle that, in *Adderley v. Dixon*, (1 Sim. & S. 607), the vendor of debts, which had been proved under a commission in bankruptcy, obtained a decree for specific performance of the contract, Sir J. Leach, V. C., observing, that "a Court of equity will decree specific performance, because damages at law cannot accurately represent the value of the future dividends; and to compel the purchaser to take such damages would be to compel him to sell those dividends at a conjectural price."

It is true, that the case before Sir J. Leach arose upon the contract of sale; and the point now under consideration arises upon a contract of mortgage; but there appears to be no valid reason why the same principle

should not apply to both cases, nor why the intended mortgagee should be compelled to forego the security agreed upon, and a fixed rate of interest, for what, in effect, would be a purely conjectural price, viz. damages assessed by a jury.

If, in the case now under consideration, the intended mortgagee should be entitled to specific performance, on the grounds we have before stated, the intended mortgagor could also have obtained specific performance, if not upon similar grounds, nevertheless upon the grounds which we have before alluded to, that the remedies in equity between parties to a contract must be mutual.

We hope that this subject will obtain a more searching judicial consideration, and that if there appears to be no sufficient reason why the principles of the law of specific performance, long since acted upon in the case of contracts for sale, should not also be applicable to cases of contracts of mortgage, the Court of Chancery will not hesitate to include them within the limits of its jurisdiction.

In the case of *Rogers v. Challis* there may be other reasons why specific performance could not have been granted, such as the subsequent mortgage of the property to a person who may not have had notice of the original contract.

Our remarks are confined solely to the question, whether specific performance of a contract to mortgage an estate might not, at any rate in some instances, be enforced by a Court of equity, on the same principle upon which it enforces specific performance of a contract to purchase land.

## Imperial Parliament.

HOUSE OF LORDS.—TUESDAY, April 24.

### LAW AND EQUITY BILL.

The Lord Chancellor, in moving the second reading of this bill, said that we had arrived at a crisis in law reform, and the question now was, whether there should be a further fusion of law and equity. That subject had been commended to the careful attention of Parliament in the speech delivered from the Throne at the commencement of the session, with a view to enable the courts of common law finally to determine, in a satisfactory manner, any case which might be duly brought before them. There prevailed in this country what he believed was unknown in any other civilised State—a distinction between the law administered in one tribunal and the law administered in another. That had arisen from what he must call the narrow-minded and technical decisions of the common-law judges in former times. Justice having been denied to the subject in the courts of common law, it became necessary to apply to another tribunal. Another tribunal was constituted, from which the most important advantages were derived by the country—he meant the Court of Chancery. The great men who had presided in that court had constructed a most beautiful system of jurisprudence, the admiration of the whole world. For many generations a conflict went on between the courts on one side of Westminster Hall and the courts on the other, and Lord Mansfield made an attempt to bring about some reconciliation. But that jurist incurred great obloquy for his endeavours, because it had unhappily been the practice of the law courts for cen-

turies before to regard their respective rules as absolute perfection. He remembered, indeed, that when he himself entered the Profession the equitable doctrines of Lord Mansfield were sneered at and contemned. Thus things continued, until fortunately a commission was appointed by her Majesty to consider what improvements could be made in the courts of equity. The commission consisted of eminent men—viz. Sir J. Romilly, Lord Justice Turner, Sir W. P. Wood, Mr. Justice Crompton, Sir R. Bethell, Sir J. Graham, Mr. Henley, Mr. J. Parker, and Mr. W. M. James. Their recommendations, as far as the courts of equity were concerned, had been almost entirely carried into effect; but he was sorry to say that in the common-law courts much yet remained to be done. The commission took the most enlightened view of the subject, and offered most valuable suggestions. In the report which they presented to her Majesty in 1852 they stated:—

“The mischiefs which arise from the system of several distinct courts proceeding on distinct, and in some cases antagonistic, principles, are extensive and deep-rooted. These mischiefs, we believe, have arisen in part from the different principles by which the different courts are governed, and the different systems of law from which those principles are derived, and in part from inherent defects in the powers of the several courts. . . . It happens that in many cases parties, in the course of the same litigation, are driven backwards and forwards from courts of law to courts of equity, and from courts of equity to courts of law. A defendant in an action at law, who has a just ground of defence, is often obliged to resort to equity to control the decision of a court of law, or to restrain the plaintiff at law from proceeding to obtain a judgment which cannot in equity be permitted to be available. . . . Again: courts of law have no powers for the preservation of property pending litigation. A court of equity has such powers; and parties suing in courts of law are thus frequently driven into equity for the preservation of the property pending the suit at law.”

The commissioners laid down principles which he wished to see adopted. They said—

“It is obviously most desirable, that in every case the court which has the cognisance of the matter in dispute should be able to give complete relief.”

Having, then, discussed the various remedies which had been suggested, they continued—

“We have arrived at the conclusion, that without abolishing the distinction between law and equity, or blending the courts into one court of universal jurisdiction, a practical and effectual remedy for many of the evils in question may be found in such a transfer or blending of jurisdiction, coupled with such other practical amendments, as will render each court competent to administer complete justice in the cases which fall under its cognisance. We think that the jurisdiction now exercised by the courts of equity may be conferred upon courts of law, and that the jurisdiction now exercised by courts of law may be conferred upon courts of equity, to such an extent as to render both courts competent to administer entire justice, without the parties in the one court being obliged to resort to the aid of the other.”

There the ground was laid down on which this bill was founded—one cause and one court. It was not proposed that a suit should be brought in the Court of Queen's Bench against a trustee for breach of trust, or that an action for assault and battery should be brought in the Court of Chancery; but that legal rights should be enforced in the courts of common law, and, if equitable questions arose incidentally, that those courts should have power to dispose of them without entailing on the parties the necessity of going to another tribunal,

employing another set of counsel, and thus incurring infinite delay and expense. His hon. and learned friend Sir R. Bethell, who was not only a great advocate, but a profound jurist, in an address which he delivered at the inauguration of the Juridical Society in 1855, said—

“For above a century this country has exhibited the anomalous spectacle of distinct tribunals acting upon antagonistic principles, and dispensing different qualities of justice. It is the rule and duty of the one set of courts frequently to refuse to recognise the real right of ownership—to ignore defences and claims founded on the best established rules of justice; and the prevention of gross injury committed in the name of the law is made to depend upon the other court being quick enough to overtake and arrest the first in its career of acknowledged injustice, and prevent it from deliberately committing wrong.”

The commissioners who were appointed to inquire into the common-law procedure had reported on the same subject, and the country was deeply indebted to them for their labours. Whatever might be thought of their suggestions respecting the equitable jurisdiction, their recommendations for amending the pleadings and process of the common-law courts would be generally admitted to have been most valuable. During the first nine months after the Procedure Bill of 1852 came into operation, the rules granted by those courts were reduced from 38,009 to 3081, although a greater number of actions were brought and depending. The Common-law Commissioners were Chief Justice Jervis, Chief Justice Cockburn, Mr. Justice Willes, and Baron Bramwell. In their second report, in 1852, the commissioners stated—

“We think we shall not outstep the limits of our commission by so far expressing our opinion, upon what is commonly called the fusion of law and equity, as to say, that, whether or not it may be thought conducive to the despatch of business and satisfaction in the administration of justice to do away altogether with the present division of labour between the courts of law and equity, so far as that division arises out of the diversity of the subject-matters over which either class of courts exercises an exclusive and complete jurisdiction, it appears to us that the courts of common law, to be able satisfactorily to administer justice, ought to possess, in all matters within their jurisdiction, the power to give all the redress necessary to protect and vindicate common-law rights, and to prevent wrongs, whether existing, or likely to happen unless prevented.”

They then went on to recommend specific improvements, on which the present bill was partly founded. On the recommendation of the commissioners, jurisdiction was given to the courts of common law in all cases where there was an equitable defence; but the courts of equity held that suitors were not bound by the judgment where there was power to set up an equitable defence; so that, if judgment were given against them, they might go into a court of equity, file a bill, and have the whole case tried over again. Sir H. Cairns, a great ornament of the Profession, had brought in a bill which did give to the courts of equity the powers that were required to do full justice to suitors who came before them; whereas formerly it was necessary, when a legal question arose, to go into a common-law court, having an issue directed to try the point. Sir H. Cairns' Act enabled the court of equity to decide legal questions arising in an equitable suit; but he was sorry to say that the equity judges were very reluctant to avail themselves of the power, and it was often necessary in an equitable suit to resort to an action in the common-law courts to enforce a legal right, and to incur great additional expense by employing two distinct sets of counsel. In their third report, the Common-

law Commissioners—Cockburn, Martin, Willes, Bramwell, and Walton—pointing out the evils and remedies, said:—

“It is our intention and wish that the result of what is proposed should be ingrafted upon, and become part of, the common law, and that the distinction between common law and Chancery law should be so far abolished. If, in addition to this, the Court of Chancery is prohibited from interfering in cases where common-law rights are thus rendered capable of complete vindication in the courts of common law, and in which, therefore, its interference will have become useless, the greater part, if not the whole, of the field of conflict will be done away with, by confining the operation of the courts respectively to subject-matters peculiar to each. Thoroughly to effect this it is necessary to confer upon common-law courts power to give, in respect of rights there recognised, all the protection and redress which at present can be obtained in any jurisdiction, and it is upon this principle that we have acted in our suggestions. If they be carried into effect there will no longer be the spectacle of jurisdictions imperfect in themselves, and clashing with one another, but each court will be armed in itself with exclusive jurisdiction over the subject-matter within its cognisance, and with full power to give all the protection and redress which the law at present affords by means of a plurality of suits. The conflict of jurisdiction will be done away with, because the occasion for it will no longer exist. We have only to add, that we have given our best attention to the question, whether it is necessary to adopt the procedure of the Court of Chancery in cases where it is proposed to borrow from its remedies; and we have arrived at the conclusion, strengthened by an experience of the working of the Common-law Procedure Act of 1854, that the desired object can be attained as effectually, and with less expense, by means of the ordinary proceedings of the common-law courts.”

This report having been presented to her Majesty, no time was lost to carry it into execution. The bill, of which he now moved the second reading, had been framed entirely and exclusively on the suggestions of those eminent lawyers, the commissioners. The bill, for which he took no merit, was drawn by Mr. Justice Willes. He had introduced it without altering a single line. It was approved by all the common-law judges; but the equity judges, including the Master of the Rolls and Lords Justices Knight Bruce and Turner, signed a memorial against any further fusion of law and equity. He should not ask their Lordships to pass this bill unless the objections of the equity judges could be obviated; and therefore he proposed, if the bill were read a second time, to have it immediately referred to a select committee. Lord Chief Justice Cockburn had assured him, that, after having carefully considered the question, he did not believe those objections to be tenable; and Mr. Justice Willes was of a similar opinion. He should not enter in detail into the provisions of the bill, but he might observe, that in those cases in which a court of equity possessed the right, on fixed principles, to grant relief against the forfeiture of leases, and an ejectment was brought by the landlord against the tenant, relief was sought to be afforded by dispensing with the present dilatory proceedings. The noble and learned lord concluded by moving the second reading of the bill.

Lord St. Leonards observed, that in so far as the bill tended to alter the present system of legal proceedings, it might be characterised as a measure calculated rather to promote the confusion than the fusion of law and equity. He should, in the first place, draw the attention of the House to the fact that the commissioners had not been authorised to make the report which they had done, in reference to equity jurisdiction, inasmuch as

their inquiry had been directed to the principles of pleading in the courts of common law, the manner of conducting suits before those tribunals, and other circumstances connected with their proceedings. The commissioners had, therefore, gone beyond the scope of their powers in reporting that it was expedient to give to the courts of common law all the material functions which were now discharged by courts of equity; and this without the slightest necessity. By this process it was supposed that the two different systems would be amalgamated; but all they would do was to take equity from the courts that understood it, and persons competent to administer it, and give it to courts that did not understand it, and persons who were not competent to administer it. If there must be a fusion of the two systems, they must have a code of law drawn up for the purpose. As the law at present existed, no man had ability enough to execute both common law and equity. Let them consider a moment how the courts, the machinery of both systems, stood. There were seven judges in the courts of equity—the Lord Chancellor, the Master of the Rolls, two Judges of Appeal, and three Vice-Chancellors. How they had answered the purpose intended was proved by the fact that in no country was a system of equity law ever so well or so cheaply administered as in England at present. The Lord Chancellor sat separately; the Master of the Rolls and the three Vice-Chancellors were always sitting. What did the bill propose to substitute for this machinery? The fifteen judges of the common law, whose time was already fully occupied by the business of their own courts. Only a few evenings since the noble and learned lord on the woolsack asked their lordships to agree to the bill for increasing the powers of the judge of the Divorce Court, on the ground that the common-law judges were too much occupied to be able to sit as assistant judges in the Court of Divorce. Then, how was it possible to ask their lordships, without necessity, to transfer the duties of the courts of equity, which they were perfectly competent to execute, to the courts of common law, that could hardly do all their own work? They were quite inadequate to discharge the new duties required of them, or undertake the amount of business that now occupied the six equity courts and the seven judges. The consequence of the change would be, the equity courts would not be fully occupied, and the courts of common-law would be encumbered with too much work. The machinery of the two systems, as at present constituted, enabled each division to discharge its own duties. But he thought, with all respect to the common-law judges, that they were rather too fond of making cases brought before them the subject of reference to arbitration, which was not the case in the Courts of Chancery. It would be found impossible to transfer the business of one set of courts to the other. It was inevitable that the common-law judges should not be learned in the law of equity; yet it was proposed to transfer to them a system of procedure they had never studied, and in which they had not had the practice indispensable to form an equity lawyer. The consequence of referring equity cases to the courts combined must be confusion, and a mass of conflicting opinions. He had the greatest respect for the learning of the common-law judges in their own line, but common-law lawyers themselves would be ready to admit that they were not equity lawyers. If there existed a want of capacity in the judge, insufficient time for dealing with these questions, and a want of adequate machinery for executing the decisions which might be made, with what prospect of success, he asked, could it be proposed to confer equitable jurisdiction on the courts of law? By taking on themselves to act under the provisions of this bill, these courts would frequently be forced to take charge of the money belonging to suitors. In Chancery this portion of the duties of the

court had been reduced to a perfect system. All monies were paid in to the Accountant-General, whose office was one of long standing, and who had under him a large staff of clerks, while in the Bank of England there was a large department appropriated to the Court of Chancery, with a view to insure the security of the funds and their due application. Was it intended that there should be a similar large establishment for the courts of common law, or were they to have a repetition of what had already happened, where a suitor, coming to claim his money, found that it had been dealt with by the person to whom it was intrusted? In the case of a fraudulent or improvident trustee the person entitled to the equitable estate would have little difficulty, and would incur comparatively trifling expense, in causing the property to be conveyed into proper hands; but before the common-law judges a fraudulent trustee would be able to make out a much better case; and under the provisions of this bill, the owner, he contended, would be compelled to make good his equitable right, as against the trustee, before it would be competent for the judges to decide on the evidence. The result of the measure, if passed, would be, that the equity courts would sit inactive, while the law courts, with insufficient machinery, time, and information, would be engaged in the attempt to execute imperfectly and ineffectually the business which it was sought to withdraw from the proper channel. As for amending the bill in committee, there was but one thing which could be done with it, and that was to run a pen through all the clauses relating to the equitable jurisdiction. The third report of the Common-law Commissioners proposed that certain equitable powers should be given to the law courts, which they refused to assume, on the ground that they had not sufficient jurisdiction. It was not, however, a want of power on the part of the judges, but a want of determination to execute that power, which prevented them from doing so. The judges found—and nobody was better acquainted with the fact than the noble lord on the woolsack—that they were unable to deal with the subject, and they refused to assume the authority which the act of Parliament had conferred on them. Now, it was proposed, in so many words, that they should have the power which they had before declared they were unable to execute. The bill directed that in cases where the judges found they were not able to do justice they should let the party go to equity. Was ever such a provision heard of? It was proposed, as an improvement on the existing system, that powers should be transferred from the court of equity to a court of law, and, if the latter found itself unable to deal with the cases brought before it, the remedy provided was, that they should be sent back to the very court to which at the present moment they belonged! He maintained, as he had often done, that the tendency of modern legislation was to drive suitors from the uncertainty and conflict of jurisdictions into an arrangement of their suits by way of arbitration. The bill proposed to give to courts of law power to enjoin courts of equity not to give relief; and a more monstrous proposition he had never heard. The noble and learned lord had referred to the example of America, where the equity jurisdiction was at one time in a most unsatisfactory state. The remedy applied was to enable judges of the courts of law to sit also as judges of equity; but that was not a fusion of law or equity—it was a mere confusion of judges. The judges of the Court of Exchequer here had at one time an equity jurisdiction; but the result of their being both law and equity judges was, that the equity jurisdiction was administered so unsatisfactorily that an end was put to it by the unanimous assent of all men, at a vast expense in the way of compensations and retiring allowances. And yet Parliament was now asked to sanction the re-establishment of a system with regard to all the courts

of law which had already been tried and failed signally. When this bill was produced it had thoroughly astounded him, and he had no hesitation in saying that his surprise was shared by every lawyer in and out of Parliament. He had suggested to his noble and learned friend on the woolsack to refer it to the working judges of the courts of equity—since the report of which it was the echo was drawn up entirely by common-law judges. That was done, and the report of the Master of the Rolls and the three Vice-Chancellors was now on the table, condemning the bill on every ground. To every word of that report he thoroughly subscribed. The Lords Justices had not been included in the reference, but they had also expressed their opinion in strong condemnation of the bill. Therefore the noble and learned lord on the woolsack—new to the court and to its practice—stood alone against the other six judges of the court, whose lives had been spent in it. A more important question had scarcely ever come before their lordships, and whether the bill were to be referred to a select committee or not, he should certainly take the opinion of the House in the present stage.

Lord Cranworth said he was not at present prepared to say whether the bill would be dealt with better in a select committee, or in a committee of the whole House; but it was very unfair to endeavour to crush the bill at once, merely because some of the details might be objectionable. The object of his noble and learned friend on the woolsack was to enable every court to complete the suit, and to decide finally on every matter brought before it. No one could doubt that it was better that each case should be decided quickly, cheaply, and before one tribunal, rather than before many; and therefore in the object of the bill he entirely concurred. He thought, for instance, that it was manifestly useful that, when an action of ejectment was brought, the court of common law should be able to restrain parties from committing waste, without the necessity of an injunction from the Court of Chancery; and that if, upon an action being brought for forfeiture for non-payment of rent, the money were paid within a certain time, the court of common law should be able to stop the action, in the same way as the Court of Chancery could now do. But with regard to the great bulk of the clauses, he should feel great reluctance in giving his assent. The real practical reason why they could not make a fusion of law and equity was, that one class of subject-matter in litigation required one sort of machinery, and another class required another. If law and equity were fused, all the courts must have the same machinery in order to do justice. As an illustration—if a person died in debt, a creditor might sue the executor at law, and obtain judgment; but then the court of equity would step in, and require all the assets to be collected, and distributed rateably among all the creditors. The courts of common law could not possibly deal with such a case, because they had not the machinery whereby full justice could be done. The question was not whether the judges were equally competent, but whether the courts had equally competent machinery. All the learning and intelligence in the world would not do unless there were the means to collect the assets, and distribute them rateably. On the other hand, there were cases in which it was unjust for the plaintiff to sue at all, yet the defendant could not stop the action without going to the Court of Chancery. It was to meet this state of things that provision was made in the second Common-law Procedure Act, whereby parties were allowed to plead equitable defences, if the court did not feel incompetent to deal with the matter. In the first year after the passing of that act two cases arose which completely illustrated the necessity of the alternative which enabled the courts of common law either to admit or refuse an equitable plea. In the first case an action was brought in which the equitable defence depended

on the defendant executing a proper surrender, and doing other acts which the courts of common law had no means of enforcing. In that case, therefore, the plea was not allowed. In the second case an action was brought to recover the value of machinery in a mill. The equitable defence was, that 10,000*l.* had been paid for the mill and machinery, but, by a mistake, the machinery was not mentioned in the bought and sold note. The court of common law could deal with such an issue as that, and the plea was admitted. By this bill it was proposed to enact that a party should be able to obtain an *ex parte* injunction upon what was called a summons from a judge at chambers. At present such injunctions were only granted by the Court of Chancery, to prevent irreparable mischief, upon a bill and affidavit disclosing all the circumstances both for and against the party applying. No such security would, as he understood the bill, be obtained under the present measure. More than this—it was obvious that an injunction, granted with the view of preventing irreparable mischief to one person, might cause an equal injury to him against whom it was granted. Accordingly it was essential to justice that there should be an immediate and ready means of getting rid of it. Under the present system the Court of Chancery was in theory, and, to a great extent, in practice, always open; but if injunctions were to be granted by judges at chambers during vacation, it might be several weeks before parties considering themselves aggrieved had an opportunity of applying to a court of common law for their dissolution. He had felt it his duty to state his views upon these subjects to their lordships, but, at the same time, the bill contained a great many useful provisions, and he therefore hoped that they would give it a second reading.

Lord Kingsdown said that no bill more important in its consequences than this had ever been laid before their lordships, because, whether rightly or wrongly, it would subvert the system of law which had prevailed in England for above 200 years, and would introduce into the administration of justice a confusion and an uncertainty to which the nation had hitherto happily been a stranger. The distinction between law and equity arose from the circumstance, that any system of jurisprudence which pretended to effect justice must apply different remedies to the assertion of different rights, and to the redress of different wrongs. The evil which was proposed to be remedied by this bill, and which the report of the learned commissioners suggested needed a remedy, was not that the system administered by the Court of Chancery required to be altered, not that it was wrong, not that it failed to do justice, but that it would be more efficiently applied by courts other than those to which its administration was now intrusted. The question was not whether some particular items of improvement might be adopted, but whether the general change, termed "a fusion of law and equity," was in itself desirable; and if so, whether this bill would satisfactorily carry it into effect. He collected from the report of the commissioners, that his noble and learned friend opposite (Lord Cranworth) objected on a former occasion to proposals which were again submitted to their lordships in this measure. In this matter he must say his noble and learned friend had added another to the many acknowledged, or but ill-acknowledged, obligations which the country owed to one who, while he held the Great Seal, unostentatiously discharged his high duties in a manner that might challenge comparison with his predecessors. The provisions of the bill with respect to granting injunctions and the hearing of appeals, instead of diminishing delay and expense, would largely increase them.—After describing the various costly stages through which litigants would have to pass without obtaining a settlement of the questions in dispute between them, the noble and learned lord said he had every respect for the commis-

sioners on whose recommendations the measure was stated to be based; but it was not in the nature of things that they should understand the equitable principles, practice, or pleading which they desired to apply to the common-law courts. It was with surprise he had heard the authority of his learned friend the Attorney-General cited in favour of this bill.

*Lord Chancellor.*—I quoted, in support of the principle of the bill, his address to the Juridical Society.

*Lord Kingsdown* continued.—They all knew the precision and accuracy of the Attorney-General; and it was impossible for him to persuade himself that his learned friend had ever given his high sanction to one single clause in this measure. Judging only from the internal evidence of that document, he must say that no man in the slightest degree conversant with the doctrines and practice of a court of equity could give his sanction to such a bill as that. It was said to be desirable that courts of law should possess the jurisdiction by way of injunction now exercised by the courts of equity. And how was it proposed to carry out that object? In the courts of equity an injunction was granted most rarely, and guarded with extreme precautions, in order to restrain the infraction of a right. It was given only in cases where, if withheld, irreparable injury would be done to property. His noble and learned friend said he was responsible for this bill. One could hardly believe that he had ever read its provisions. While professing to confer this jurisdiction on courts of law, instead of confining it as it had been confined by courts of equity, the bill actually extended it to every possible case in which actions for breach of contract or other injury might be brought. All actions at common law were founded either on contract or on tort; and in what cases were courts of law to be empowered to issue writs of injunction? Why, before any proceedings had been taken, "in all cases of threatened breach of contract, or other injury of such a nature that an action at law for damages might be maintained for the same if committed." Was there ever anything so monstrous? Any action for a threatened breach of the peace—the most important or the most trivial—might be the subject of these injunctions, because a court of equity might issue them. Looking through this report, as he was bound to do when told it was the foundation of this bill, he had met with a passage which had rather surprised him, and which he was utterly unable to comprehend. It spoke of the jurisdiction of the Court of Chancery "to entertain bills technically called bills for new trial." He must say he had never heard of such bills. He should apologise to their lordships for entering into these details, but it was important that the matter should be fully discussed. A good deal had been talked of the fusion of law and equity, but he could not help thinking that there ought to have been a fusion of equity and common-law judges on the commission. He had no apprehension that this bill, or anything like it, could ever by possibility pass into law. He had not much apprehension that this bill would go to the other House of Parliament in its present shape. He confessed he distrusted all these attempts to tamper with the existing legal institutions of the country. Our judicial system was like our legislative system; they were both the native growth of England; they had grown with the growth of the people, and accommodated themselves gradually to their wants. There might be irregularities or a want of symmetry in some parts of the system, but they had combined to give the country a greater share of order, freedom, and security for property than had ever been enjoyed by any other country under the sun; and he did trust their lordships would pause long before they adopted speculative alterations either to impair the efficiency of the courts or endanger the security of property.

*Lord Wensleydale* entirely agreed in the panegyric pronounced by his noble and learned friend on the woollack on the various commissioners who had considered this subject, but he objected to this bill going so much beyond the original cases in which the equity and common-law courts came in contact with each other. He therefore entirely agreed with the noble lord who first addressed their lordships in opposition to this measure, as to the extreme impropriety of extending the jurisdiction of common-law courts to cases of injunction. The noble and learned lord concluded by observing that he could not concur with his noble and learned friend (Lord St. Leonards) in objecting to the motion for the second reading of the bill.

*Lord Chelmsford* said he entirely concurred with his noble and learned friends by whom he had been preceded in their opposition to the bill, and added, that when the question which it involved came on for discussion again, it would be desirable that the House should consider whether a measure of such a character ought to be introduced, proposing to effect, as the greater portion of it did, important alterations in the jurisprudence of the country, and adopted, so far as its reference to a select committee was concerned, because it contained certain clauses which were in themselves unobjectionable.

*The Lord Chancellor*, in reply, said that as the bill was about to be read a second time without opposition, he should not enter into a discussion of the various objections which had been urged against its adoption. He could not, however, help expressing the great surprise which he felt at the statement which had been made by his noble and learned friend who had left the House, (Lord St. Leonards), to the effect that he regarded it as an act of great presumption on the part of the Common-law Commissioners that they should have dared to meddle with the subject. His noble and learned friend, indeed, seemed to look upon the conduct of the commissioners in that respect as the right reverend bench might be supposed to view a proposal for the rejection of the ten commendments; but he should remind the noble lord that the commissioners had been authorised to examine how far the courts of common law might be improved, and that they had come to the conclusion that a great obstacle to that improvement was the want of equitable jurisdiction. The having made a report in accordance with the authority with which they were invested, then, constituted the head and front of their offending; and he could not help adding, that the objections to the bill, which were founded on that report, seemed to him to be based on an entire misapprehension of its meaning; for it did not propose that suits, of whatever character they might be, might be brought indiscriminately before either equitable or common-law tribunals, but that if, incidentally, a question of law arose in a suit in equity, the equity courts might be empowered to deal with it, and vice versa. Any amendments in the bill which might be suggested would, he need hardly say, receive his most careful consideration.

In reply to Lord Chelmsford,

*The Lord Chancellor* said, when the memorial from the equity judges should be addressed to him he would lay it before the House; and when their lordships had had an opportunity of reading the objections on one side and the other, he should be ready to refer the bill to a select committee.

## HOUSE OF COMMONS.

### LIABILITY OF INNKEEPERS.

Colonel Smyth, in moving for leave to bring in a bill to limit the liability of innkeepers, said that the statute law which now regulated the liability of innkeepers dated from the reign of Queen Elizabeth. By an act



passed in the reign of Queen Elizabeth, an innkeeper was rendered liable for the goods of his guests *infra hospitium*, but not in the field or adjacent premises. By the common law, innkeepers were bound to receive any guest who presented himself, and if they refused accommodation they were liable to an action and indictment. In former days, when travelling was more tedious and disagreeable, when the roads were frequently infested with highwaymen and robbers, too often acting in concert with innkeepers, travellers were proportionately few, the dangers of the road were great, and the liability of innkeepers was only reasonable. But at the present day, when an innkeeper's house was filled night after night, and for hours in the day, with fresh guests, all strangers to him, it was not, he thought, too much to ask that an innkeeper should only be responsible for goods above a certain value which were actually placed in his charge. His attention was drawn to this subject by a trial at the assizes in the north of England, consequent upon a robbery committed at one of the inns in York. A considerable amount of property was taken from the bedroom of a traveller by a person supposed to have been concealed under his bed. The suspected thief escaped early in the morning, and was apprehended some weeks afterwards, but was not indicted for the robbery, as the evidence did not make a conviction probable. The owner of the lost property, however, brought his action against the innkeeper for restitution. The defence set up was, that the innkeeper was not liable so long as the owner had personal control over his property. The law was, however, differently, and doubtless correctly, laid down by the learned judge who tried the case, affirming the liability of the innkeeper, who had to pay a sum of 200*l.*, besides the value of the lost property—about 500*l.* or 600*l.* It appeared to him that an innkeeper should only be liable for goods exceeding a certain value actually placed in his custody, or delivered to his charge. This limitation of liability was recognised in almost every other business. Common carriers, by the 11 Geo. 4 & 1 Will. 4, obtained exemption from unlimited liability. Railway companies had obtained a similar exemption; and it must be borne in mind that such limitation did not supersede, but confined within certain limits, the common-law liability. He now sought to apply that principle to innkeepers. He proposed to make them liable, as at present, for goods up to a certain value, say 40*l.* So far, the present law would be unaltered; but he proposed that the value of goods above that amount should be declared to the innkeeper, and, if necessary, deposited with him for safe custody, in order to make him liable for any loss. Such a system worked well at the railway stations, where luggage was deposited in a safe place, and a ticket given for it during the absence of the owner. Some such arrangement was quite practicable at inns or hotels, and would be advantageous both to the traveller and innkeeper. The traveller would obtain safe custody for his property, and the innkeeper would be relieved from liability beyond a certain amount, unless he had actually charge of the property. He had added a clause giving summary jurisdiction to a magistrate in cases where meat, drink, or lodging had been obtained without the means or intention of paying for them. This fraud could now only be punished by indictment, and was a serious hardship upon innkeepers. He, however, attached the greater importance to the other portion of the bill, by which he hoped to secure to the traveller the safe custody of his goods, and to the innkeeper partial relief from his present liability. The hon. and gallant member then moved for leave to bring in a bill to amend the law respecting innkeepers, and to prevent certain frauds upon them.

The motion was agreed to, and leave given to bring in the bill, which was read a first time.

## NEW CAUSES—EASTER TERM, 1860.

### QUEEN'S BENCH.

#### NEW TRIALS.

Midd.—Fairbank v. Green	York—Baxandall v. Procter
" Hornsby v. Vestry of St. Luke, Chelsea	Liverp.—Nieman v. Moss
" Bickford v. Bunning	" Wiley v. Crawford
Lond.—Watkins v. Shepherd	" Same v. Same
" Matthews v. Gibbs	" Powell v. Hall
" Thompson v. North-eastern Railway Co.	" Deane v. Lofthouse
" Barry v. Shipley	" Blech v. Balleras
" Kopetzky v. Rudhall	North'ton—Fletcher v. Trotman
Bedford—Coleman v. Howard	Derby—Reg. v. Inhabitants of Brailsford
Norfolk—Wright v. Wilkin	Bristol—Symes v. Hutley
Surrey—Jolly v. Wimbledon and Dorking Railway Co.	Oxford—Cole v. Denny
" Stansfeld v. Dyer	" Shrubbs v. Eyre
" Potter v. Fellows	Glo'ster—Evison v. Oxford, &c. Railway Co.
Durham—Ashworth v. Stanwix & an.	" Dorset v. Muff
" Suddes v. Bellemey	Carmarth.—Thomas v. Rogers
York—Ward v. Albert Life Insurance Co.	" Davies v. Bowen
" Jim Pickard v. Pilkington & ors.	Glamorg.—Evans v. Thomas
" Pickard v. Isaac	Chester—Adshead v. Needham
" Dickinson v. Breffit	" Hall v. Crawford
" Mitchell v. Ackroyd	Tried during Term.
	Midd.—Noble v. Le Gros.

#### SPECIAL PAPER.

Edwards & an. v. Harlock (Sp. C.)	Sichell v. Watson (D., stands over until defendant has pleaded to amended decl.)
Edwards & an. v. Harlock (D.)	Ward & an. v. South-eastern Railway Co. (Sp. C.)
Smith v. Mundy (S. case)	
Pearson v. Lowndes (D.)	

### COMMON PLEAS.

#### DEMURRER PAPER.

Groux's Improved Soap Co. v. Cooper (D.)	Morton, App., Bramner, Resp. (Ap. from Justices)
Bonsall v. Bonsall (D.)	Cobham v. Holcombe (D.)
Richardson v. Nash (D.)	Thornhill & an. v. Neats (D.)

### EXCHEQUER OF PLEAS.

#### SPECIAL PAPER.

Addenbrooke & ors. v. Ramage (Sp. C.)	Hudson, Resp., Short, App. (Ap.)
Hull Flax and Cotton Mill Co. v. Wellesley (Sp. C.)	Bennett, Resp., Hodges, App. (Ap.)
Hull Flax and Cotton Mill Co. v. Wellesley (D.)	Wright v. Wright (D.)
Allsopp & Wife v. Allsopp (D.)	Hooper v. Accidental Death Insurance Co. (Sp. C.)
Bossom v. Cowmeadow (Ap.)	Rutter & an. v. Angell (D.)
Hazard v. Mare (D.)	Bruce v. Helliwell (Sp. C.)

### COURT OF PROBATE, AND COURT FOR DIVORCE AND MATRIMONIAL CAUSES.

The full Court for Divorce and Matrimonial Causes will sit at Westminster at 11 o'clock,  
On the 30th April, for trial of cases with a special jury.  
On the 3rd, 4th, and 5th May, for the trial of cases with common juries.  
On the 7th May and following days, (except Wednesdays), until further notice, the Judge of the Court of Probate will try probate causes with special and common juries.



The Court will sit at Westminster at 11 o'clock, except on Wednesdays, when the Judge will sit at chambers at 11 o'clock, and in court, to hear motions, at 12 o'clock.

Papers for motions to be left with the Clerk of the Papers before 2 o'clock on Fridays.

## ADMIRALTY COURT.

*Westminster.*

This Court will sit on the 3rd and 10th May. The Judge will sit in chambers at half-past 10 o'clock for summonses, motions in chambers, and assignments; and at 11 o'clock for motions in court and for expediting in penam causes. The Court will also sit to hear causes every day in each week, if necessary, except Wednesdays, until Tuesday, the 8th May inclusive.

## APPEALS COURT.

*Doctors' Commons.*

This Court will sit on the 2nd and 9th May, at half-past 10 o'clock.

**COMMISSIONER TO ADMINISTER OATHS IN CHANCERY.**—The Lord Chancellor has appointed Joseph George Joel, Gent., of the town and county of Newcastle-upon-Tyne, to be a Commissioner to administer oaths in the High Court of Chancery in England.

The Board of Inland Revenue have given the following explanations in answer to some inquiries referring to the operation of the new Stamp Act:—"A bill drawn abroad remitted to this country is not liable to any stamp duty until it is negotiated within the kingdom, or presented for payment. If a bill has been negotiated, it has become liable to the duty which was payable at the time when it was first negotiated, and, being at that time duly stamped, it can become chargeable with no other duty, either upon any further negotiation, or upon being presented for payment. But where a bill, which arrived in the kingdom before the recent act, is retained without being negotiated, and therefore without being subject to any immediate charge of duty until after the passing of the act 23 Vict. c. 15, it must upon the first negotiation of it, or, if it be not negotiated, upon being presented for payment, be stamped with the duty imposed by that act."

## MEETINGS.

*John Henry Cohn*, Riches-court, Lime-street, City, East India merchant, May 16 at 12, London, last ex.—*Tristram Powning*, Truro, Cornwall, grocer, May 9 at 12, Exeter, last ex.—*Mark Bouden*, Bristol, flint-glass manufacturer, May 10 at 11, Bristol, aud. ac.—*John Lowe*, Cheltenham, Gloucestershire, printer, May 24 at 11, Bristol, aud. ac.—*Levi Lowndes*, Abergavenny, Monmouthshire, draper, May 24 at 11, Bristol, aud. ac.—*Thomas Wright*, Saffron Walden, Essex, builder, May 18 at 11, London, div.—*Joseph Clever* and *Caleb Stanger*, Kent Wharf, Queen's-road-bridge, Haggerstone, Middlesex, builders, May 16 at half-past 12, London, fin. div.—*Charles Powell* and *Edward Cooke*, Old Broad-street, City, mining-share dealers, May 16 at 11, London, fin. div.—*Richard Seymour*, Downham, Cambridgeshire, grocer, May 16 at half-past 1, London, div.—*Donald Sinclair*, Bath-place, Peckham, Surrey, apothecary, March 16 at 1, London, div.—*Vohs Salmon*, Brick-lane, Spitalfields, and Baker's-terrace, East India-road, Limehouse, Middlesex, and Norwich, Norfolk, wholesale shoe manufacturer, May 16 at 12, London, div.—*Wm. Sentance Rumsey*, Queen-street-place, Upper Thames-street, City, druggist, May 16 at 2, London, div.—*William Clayton*, Langcliffe, Yorkshire, *William Clayton*, Lostock in Walton-le-Dale, Lancashire, and *William Wilson*, Preston, Lancashire, bankers, May 17 at 12, Manchester, div.—*Demetrius Pietro*

*Demetriadi*, Manchester, merchant, May 16 at 12, Manchester, div.—*George Frederick Abbott*, Manchester, Lancashire, and Clonakilty, Cork, Ireland, draper, May 17 at 12, Manchester, div.—*Joseph Porter*, *Joseph Walmsley Porter*, *Thomas Walmsley Porter*, and *Robert Rogers*, Salford, Lancashire, screw-bolt manufacturers, May 16 at 12, Manchester, div.

## CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

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## MEETINGS.

*Emelie Weiss*, Piccadilly, Middlesex, milliner, May 11 at 12, London, aud. ac.—*John Julius Stutzer*, Guildford-street, Middlesex, shipowner, May 11 at 11, London, aud. ac.—*T. C. Jennings*, Ipswich, Suffolk, tea dealer, May 10 at 11, London, aud. ac.—*Maximilian Gutkind*, Noble-street, City, merchant, May 9 at half-past 12, London, aud. ac.—*Thomas W. Hopkins*, King's-road, Chelsea, Middlesex, hosier, May 9 at 11, London, aud. ac.; May 21 at 12, div.—*William Elson*, Hartley Wintney and Riveham, Southampton, brickmaker, May 7 at 11, London, aud. ac.—*George Cuckow*, Woodbridge, Suffolk, grocer, May 9 at 11, London, aud. ac.—*Nathaniel Symons*, Cambridge-street, St. Pancras, Middlesex, ironfounder, May 9 at 11, London, aud. ac.—*Walter Faithfull*, Ironmonger-lane, City, linen agent, May 15 at 11, London, aud. ac.; May 22 at 12, div.—*George Simons* and *Moses Simons*, King's-square, Goswell-road,

Middlesex, watch manufacturers, May 15 at 12, London, aud. ac.—*Joseph A. Crane*, King-street, Cheapside, City, merchant, May 12 at 1, London, aud. ac.—*James Lane*, Kingsland-place, Kingsland-road, Middlesex, mining-share broker, May 12 at 1, London, aud. ac.—*Jonah Jenkins*, Llanharan, Glamorganshire, boat maker, May 10 at 11, Bristol, aud. ac.—*Eldon Pringle*, Southport, Lancashire, shipowner, May 9 at 11, Liverpool, aud. ac.—*Wm. Clayton*, Langcliffe, Yorkshire, *Wm. Clayton*, Lostock in Walton-le-Dale, Lancashire, and *Wm. Wilson*, Preston, Lancashire, bankers, May 11 at 12, Manchester, aud. ac.—*Demetrius Pistro Demetriadi*, Manchester, merchant, May 9 at 12, Manchester, aud. ac.—*George F. Abbott*, Clonakilty, Cork, Ireland, draper, May 11 at 12, Manchester, aud. ac.—*Joseph Porter*, *Joseph W. Porter*, *Thomas W. Porter*, and *Robert Rogers*, Salford, Lancashire, screw-bolt manufacturers, May 9 at 12, Manchester, aud. ac.—*Henry Clemerson*, Loughborough, Leicestershire, ironmonger, May 10 at 11, Nottingham, aud. ac.—*P. Tunstall*, Goldenhill, Staffordshire, builder, June 4 at 11, Birmingham, aud. ac.—*Charles Thorneycroft*, Alrewas, Staffordshire, also dealer, May 10 at 11, Birmingham, aud. ac.—*Henry Moss*, Leeds, Yorkshire, draper, May 10 at 11, Leeds, aud. ac.—*Sadler Smith*, Holywell-row, Shoreditch, carman, May 18 at half-past 1, London, div.—*Henry Quarterman*, Oxford, carpenter, May 18 at 11, London, div.—*J. G. Marsh*, Church-street, Minorities, City, carpenter, May 18 at 12, London, div.—*Wm. J. Normanville*, Seymour-chambers, Duke-street, Adelphi, and Queen's-road, Regent's-park, Middlesex, commission agent, May 18 at half-past 11, London, div.—*John P. Smith*, Coventry-street, Haymarket, Middlesex, tea dealer, May 18 at half-past 12, London, div.—*James Summers*, Hatton-garden, Middlesex, wholesale jeweller, May 18 at 1, London, div.—*George Clark*, Ashford, Kent, builder, May 19 at half-past 11, London, div.—*Isaac White*, Biggleswade, Bedfordshire, ironmonger, May 19 at 12, London, div.—*T. H. Jennings*, Halkin-street West, Belgrave-square, and Church-street, Chelsea, Middlesex, papier-maché manufacturer, May 22 at 1, London, div.—*Thomas Morris*, Long Eaton, Derbyshire, joiner, May 22 at half-past 11, Nottingham, aud. ac. and div.—*Alexander M. Naughtane Paterson*, *John Walker*, *James Beydell*, and *Charles Blagney T. Roper*, Kingswinford, Staffordshire, ironfounders, June 4 at 11, Birmingham, div. sep. est. of *James Beydell*.—*Levi Loundes*, Abergavenny, Monmouthshire, draper, May 31 at 11, Bristol, div.—*James Hassell*, Bristol, soap manufacturer, May 24 at 11, Bristol, div.—*Joseph Ashhead*, Manchester, wholesale hosier, May 18 at 12 Manchester, div.

## CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

*Thomas Pepper*, Mountfield, Sussex, wheelwright, May 18 at half-past 1, London.—*John Whittaker Bush*, Wandsworth, Surrey, colour manufacturer, May 22 at 2, London.—*Theodore Hyla Jennens*, Halkin-street West, Belgrave-square, and Church-street, Chelsea, Middlesex, papier-maché manufacturer, May 22 at 1, London.—*Thomas Wearre Hopkins*, King's-road, Chelsea, Middlesex, hosier, May 21 at half-past 11, London.—*John Mintorn* the younger, New Bond-street, Middlesex, manufacturer of materials for wax flowers, May 19 at 11, London.—*Levi Loundes*, Abergavenny, Monmouthshire, draper, May 22 at 11, Bristol.—*Mark Bowden*, Bristol, flint-glass manufacturer, May 21 at 11, Bristol.—*William Johnson*, Shrewsbury, Shropshire, leather dealer, May 21 at 11, Birmingham.—*Wm. Grindy* the younger, Longnor Edge, near Longnor, Staffordshire, cattle salesman, June 1 at 11, Birmingham.—*George Chambers White*, Donington, Lincolnshire, brewer, May 22 at half-past 11, Nottingham.

To be granted, unless an Appeal be duly entered.

*James Kavis*, Old-street, St. Luke's, Middlesex, licensed victualler.—*Edouard Simon*, South-street, Brompton, Middlesex, and Mark-lane, City, wine merchant.—*Richard Nash*, Wolverhampton, Staffordshire, tankkeeper.—*Wm. Ellis* the elder, Nottingham, and Atherstone, Warwickshire, and *Wm. Ellis*, the younger, Atherstone, scaleboard manufacturers.

## PETITION ANNULLED.

*Charles Mottram Chesham*, Worksop, Nottinghamshire, linendraper.

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## THE JURIST.

LONDON, MAY 5, 1866.

"THERE is no doubt but that all questions upon the rules of evidence are of vast importance to all orders of men: our lives, our liberty, and our property are all concerned in the support of these rules, which have been matured by the wisdom of ages, and are now revered for their antiquity, and the good sense on which they are founded." Such was the opinion expressed by Lord Chief Justice Kenyon upon the law of evidence as it stood sixty years since. Between that time and the present, this revered state of things has been much altered by legislative enactments, whose authors, having demonstrated that the old system was not perfection, boldly attacked and improved upon it.

Taught by experience, the Profession and public are now willing patiently to discuss questions upon this, as on any other branch of the law. It cannot be denied that the rule excluding hearsay evidence, though in general admirably calculated for trial before popular tribunals, may on many occasions lead to a failure of justice. This rule has in consequence been, in certain instances, relaxed. Mr. Pitt Taylor, in the first volume of his work on Evidence, (p. 498), enumerates six classes of exceptions, the sixth of which is, "dying declarations." He observes of them that they are allowed on the ground of the assumed absence of better evidence, and, as it were, from necessity. The exception, then, being admitted, it is curious to observe how its application has been narrowed, so that at the present time it is available but in one single instance. It is essential to the admissibility of these declarations that they should be made by a person in extremis; that there should be at the time of the statement actual danger, (which has been followed by death), and a firm belief that death was impending; and such declarations are, of course, only admitted as to matters to which the declarant would have been competent to testify if he had been

sworn in the cause. The general principle on which this species of evidence is admitted, according to the language of Lord Chief Baron Eyre, is, "that they are declarations made in extremity, when the party is at the point of death, and when every hope of this world is gone, when every motive to falsehood is silenced, and the mind is induced by the most powerful considerations to speak the truth. A situation so solemn and so awful is considered by the law as creating an obligation equal to that which is imposed by a positive oath in a court of justice." (*Rex v. Woodcock*, 1 Leach's C. C. 502). Such reasoning seems to warrant generally the admission of declarations made under the circumstances mentioned above, and does not point to a distinction to be made between civil and criminal cases, or to one set of criminal cases over another. But, notwithstanding that this principle and reasoning are admitted, it appears to be the law that evidence of this description is admissible in no civil case, and in criminal cases only in the single instance of *homicide*, where the death of the deceased is the subject of the charge, and the circumstances of the death are the subject of the dying declaration. (*Rex v. Mead*, 2 B. & Cr. 608). It is this distinction that we think is taken upon no solid ground, and the rejection of this species of evidence in civil and criminal cases generally is not to be supported. The principle of this exception to hearsay evidence being admitted should be admissible generally; if it is denied in civil matters, it is equally liable to objection in criminal; if refused in some criminal cases, still more ought it to be suspected in cases where the prisoner's life is endangered. If excessive caution discards it in the former instance, it ought to make the rule still stricter in the last case. If it is admitted through convenience and necessity in the one acknowledged instance, the same convenience and necessity require its admission in the other cases, where it may be applied with less danger in its results. The reasons, however, for thus restricting the admission of this evidence are

given by Mr. Justice Livingston in the American case of *Jackson v. Kniffen*, (2 Johns. 31). In this case it was sought to get rid of a will by the dying declaration of the testator, which was to the effect that he had been compelled to make his will by duress. This evidence was rejected by three judges to two—the Chief Justice Kent, one of the three, not giving his reasons. Mr. Justice Thomson's reason was, that "to permit wills to be defeated, or in any manner whatsoever impeached, by the parol declarations of the testator, appeared to be repugnant to the genius and spirit of the statute," (the Statute of Frauds); thus avoiding the present question. The third judge was Mr. Justice Livingston, whose observations appear to have greater force, if applied as objections to the quality or weight of the evidence, than to its admissibility. He said that the reasons against its admission were—first, the danger of perjury in fabricating declarations, the truth or falsehood of which it is impossible to ascertain; secondly, the danger of letting in incomplete statements, which, though true as far as they go, do not constitute the whole truth; and, thirdly, the experienced fact, that implicit reliance cannot in all cases be placed on the declaration of a dying person; for his body may have survived the powers of his mind; or his recollections, if his senses are not impaired, may not be perfect; or, for the sake of ease, and to be rid of the importunity of those around him, he may say, or seem to say, whatever they choose to suggest. Mr. Pitt Taylor goes on to say, that as these considerations are thought to counterbalance the force of the general principle, the exception under review is restricted to cases of homicide, and is there recognised on the ground of necessity." For as it often happens that no third person was present as an eye-witness to a murder, and as the party injured, who is the usual witness in other cases of felony, cannot himself be called, it follows, that if his dying declarations could not be received, the murderer might often escape justice. (*Jackson v. Kniffen*, 2 Johns. 31, 35).

Now, if these three reasons are sufficient, in civil and all criminal cases but that of homicide, to exclude the evidence, they certainly ought to exclude it where its admission jeopardises, not the property or liberty only, but the very life of the fellow-citizen upon his trial, where a miscarriage cannot be remedied. The fact is, if this reasoning is to prevail, the third objection would be conclusive against its admission in this instance also. Then, too, it is said, the necessity of the case requires its acceptance; but the example given is no more conclusive than one in which it was rejected. One of the instances quoted in proof of the proposition contended for by Mr. Pitt Taylor affords an equally potent instance with the one we before mentioned, of the delinquent escaping justice unless the dying declaration is admitted. In *Rez v. Hutchinson* (2 B. & Cr. 608, note) the prisoner was indicted for administering savin to a woman who was pregnant, but not quick with child, with intent to procure abortion. The woman was dead—her dying declaration was offered—the evidence was rejected; and though the result of the case is not stated in the report, yet it is improbable that any other person could speak to the circumstance. So,

at the last Spring Assizes for Gloucester, a person was indicted for using an instrument with intent to procure miscarriage. The woman died. Mr. Justice Keating admitted, subject to review, her dying declarations to the fact. Without them a failure of justice would have ensued. The prisoner was convicted. Was there not an equal necessity in both these cases with the former one for its admission? If death had resulted with sufficient proximity to have justified a charge of manslaughter, whatever his victim had said on her death-bed would have been good evidence against the prisoner; but to charge him with a lesser crime, it is not to be admitted. In truth, the reasons given for confining the exception under review to the one solitary instance mentioned are not sound; but declarations made under the circumstances mentioned in the commencement of this article ought to be admitted in all cases where no other better evidence can be obtained to supply their place. They would be subject to the observations of counsel, and go valeant quantum. The absence of opportunity for cross-examination, the physical and mental condition of the deponent, the accuracy or possible inaccuracy of the relator, and any other notable surrounding circumstances, would be legitimate subjects of observation to the jury, to give weight to or detract from the value of the testimony. If any reason could be found sufficient to exclude this evidence, we should be disposed to put it on the want of a power of cross-examination; but whilst this has great influence on the value of the evidence, yet it ought not so to weigh against the solemnity of the occasion on which it is given as to withdraw it entirely from the consideration of the jury. We do not deny that great caution should always be exercised in the use of this kind of evidence; but it does seem to us that it might be used with less danger in the instances in which it is excluded, than in the one in which it is permitted; for in the latter case the impressions formed have, in all probability, been gathered in a scene of violence, and under circumstances of surprise and confusion, which would lead to mistakes of identity and omission of facts. Our space will not admit, on this occasion, of an examination of the authorities on this question, but a future opportunity may be afforded of shewing that the authorities do not negative beyond dispute the admission of this species of evidence in civil and criminal cases to the extent commonly supposed.

#### GENTLEMEN CALLED TO THE BAR.

THE following gentlemen have been called to the degree of Barrister at Law:—

LINCOLN'S INN.—Henry Wynne Seymour Smith, Esq., B.A.; Edmund Haviland Burke, Esq.; Hugh Charles Penfold, Esq., M.A.; Charles Baron Clarke, Esq., M.A.; William Latham, Esq., B.A.; James Curtis Leman, Esq., B.A.; Lewis Price Delves Broughton, Esq., B.A.; William Coryndon Gurney, Esq., B.A.; Henry Longley, Esq., M.A.; and Frederick Collins Wilson, Esq., B.A.

INNER TEMPLE.—Samuel John Housley, Esq., B.A.; Allen Marden Graham, Esq., B.A.; Charles Joseph Theophilus Hambro, Esq.; John Gully, Esq., M.A.; Thomas Woodcock, Esq.; and Lumley Smith, Esq., M.A.

MIDDLE TEMPLE.—Frank Stanley Dobson, Esq., LL.B.; Butler Charles Rigby, Esq.; James Lowe, Esq.; and John Andrews, Esq., B.A.

## BILL IN PROGRESS.

POWERS OF TRUSTEES, MORTGAGEES, &c.  
(LORD CRANWORTH).

*Abstract of a Bill intitled "An Act to give to Trustees, Mortgagees, and others certain Powers now commonly inserted in Settlements, Mortgages, and Wills."*

Sect. 1. In all cases where, by any will, deed, or other instrument of settlement, it is expressly declared or manifestly intended that trustees or other persons therein named or indicated shall have a power of sale, either generally or in any particular event, over any hereditaments named or referred to in, or from time to time subject to the uses and trusts of, such will, deed, or other instrument, it shall be lawful for such trustees or other persons, whether such hereditaments be vested in them or not, to exercise such power of sale by selling such hereditaments, either together or in lots, and either by public auction or private contract, and either at one time or at several times, or to exchange such hereditaments for any other hereditaments in England or Ireland, (as the case may be), and upon such exchange to give or receive any money for equality of exchange.

2. It shall be lawful for the persons making any such sale to insert any such special or other stipulations, either as to title or evidence of title, or otherwise, in any conditions of sale, or contract for sale or exchange, as they shall think fit, and also to buy in the hereditaments, or any part thereof, at any sale by auction, and to rescind or vary any contract for sale or exchange, and to resell the hereditaments which shall be so bought in, or as to which the contract shall be so rescinded, without being responsible for any loss which may be occasioned thereby, and any such sale may be made although the persons making the same may not have in contemplation any particular re-investment of the purchase money in the purchase of any other hereditaments or otherwise.

3. Power of sale to include powers to enfranchise, to grant licenses to tenants to build, and to make roads and streets, and also (for the purpose of building or improvement) to pull down buildings, and also to demise for any term not exceeding ninety-nine years in possession.

4. For the purpose of completing any such sale, exchange, or enfranchisement as aforesaid, the persons empowered to sell, exchange, or enfranchise as aforesaid shall have full power to convey or otherwise dispose of the hereditaments in question, either by way of revocation and appointment of the use, or otherwise, as may be necessary.

5. The money received upon any sale, or for equality of exchange, or on any enfranchisement as aforesaid, shall be laid out in the manner indicated in that behalf in the will, deed, or instrument containing the power of sale; or if no such indication be therein contained as to all or any part of such money, then the same shall with all convenient speed be laid out in the purchase of other hereditaments in fee-simple in possession, to be situate in England or Ireland, (as the case may be), or of lands of a leasehold or copyhold or customary tenure, which, in the opinion of the persons making the purchase, are convenient to be held therewith, or with any other hereditaments for the time being, subject to the subsisting uses or trusts of the same will, deed, or other instrument of settlement in which the power of sale was contained; and all such hereditaments so to be purchased or taken in exchange as aforesaid, as shall be freeholds of inheritance, shall be settled and assured to the uses, upon and for the trusts, intents, and purposes, and with, under, and subject to the powers, provisions, and declarations to which the hereditaments sold or given in exchange were or would have been subject, or as near thereto as the deaths of parties and other intervening accidents will admit of, but not so as to increase or multiply charges; and all such hereditaments so to be purchased or taken in exchange as aforesaid, as shall be of leasehold or copyhold or customary tenure, shall be settled and assured upon and for such trusts, intents, and purposes, and with, under, and subject to such powers, provisions, and declarations, as shall as nearly as may be correspond with and be similar to the aforesaid uses, trusts, intents, and purposes, powers, provisions, and declarations, but not so as to increase or multiply charges, and so that if any of the hereditaments so to be purchased shall be held by lease for years, the same shall not vest absolutely in any tenant in tail by purchase

who shall not attain the age of twenty-one years; and any such purchase as aforesaid may be made subject to any special conditions as to title or otherwise.

6. Provided nevertheless, that it shall be lawful for the persons exercising such power of sale or exchange or enfranchisement as aforesaid, if they shall think fit, to apply any money to be received upon any sale, or for equality of exchange, or for enfranchisement as aforesaid, or any part thereof, in lieu of purchasing lands therewith, in or towards paying off or discharging any mortgage or other charge or incumbrance which shall or may affect all or any of the hereditaments which shall then be subject to the same uses or trusts as the hereditaments sold or given in exchange.

7. Until the money to be received upon any sale, or for equality of exchange, or for enfranchisement as aforesaid, shall be disposed of in the manner herein mentioned, the same shall be invested at interest for the benefit of the same parties who would be entitled to the hereditaments to be purchased therewith as aforesaid, and the rents and profits thereof, in case such purchase and settlement as aforesaid were then actually made.

8. Trustees of leaseholds renewable by contract, custom, or practice, may, and if required must, obtain a renewal.

9. Money required for equality of exchange or for renewal may be paid out of any money subject to the same trust, or may be raised by mortgage of any hereditaments subject to the same trust.

10. No sale or exchange, enfranchisement or purchase, shall be made without the consent of the person appointed to consent by the will, deed, or other instrument; or if no such person be appointed, then of the person entitled in possession to the rents, if under no disability.

11. Nothing in this part of this act shall be deemed to empower any trustees or other persons to deal with or affect the estates or rights of any persons soever, except to the extent to which they might have dealt with or affected the estates or rights of any persons if the deed, will, or other instrument under which such trustees or other persons are hereby empowered to act had contained express powers for such trustees or other persons so to deal with or affect such estates or rights.

12. Where any principal money is secured or charged by deed on any hereditaments of any tenure, or on any interest therein, the person to whom such money shall for the time being be payable, his executors, administrators, and assigns, shall, at any time after the expiration of one year from the time when such principal money shall have become payable, according to the terms of the deed, or after any interest on such principal money shall have been in arrear for six months, or after any omission to pay any premium on any insurance which, by the terms of the deed, ought to be paid by the person entitled to the property subject to the charge, have the following powers, to the same extent (but no more) as if they had been in terms conferred by the person creating the charge; namely,

- (1). A power to sell, or concur with any other person in selling, the whole or any part of the property by public auction or private contract, subject to any reasonable conditions he may think fit, and to rescind or vary contracts for sale, or buy in and resell the same, from time to time, in like manner:
- (2). A power to insure and keep insured from loss or damage by fire the whole or any part of the property (whether affixed to the freehold or not) which is in its nature insurable, and to add the premiums paid for any such insurance to the principal money secured at the same rate of interest:
- (3). A power to appoint, or obtain the appointment, of a receiver of the rents and profits of the whole or any part of the property, in manner hereinafter mentioned.

13. No such sale as aforesaid shall be made until after six months' notice in writing given to the person, or one of the persons, entitled to the property subject to the charge, or affixed on some conspicuous part of such property; but when a sale has been effected in professed exercise of the powers hereby conferred, the title of the purchaser shall not be liable to be impeached on the ground that no case had arisen to authorise the exercise of such power, or that no such notice as aforesaid had been given; but any person damaged by



any such unauthorised exercise of such power shall have his remedy in damages against the person selling.

14. The money arising by any sale effected as aforesaid shall be applied by the person receiving the same as follows—first, in payment of all the expenses incident to the sale, or incurred in any attempted sale; secondly, in discharge of all interest then due in respect of the charge in consequence whereof the sale was made; and, thirdly, in discharge of all the principal monies then due in respect of such charge; and the residue of such money shall be paid to the person entitled to the property subject to the charge, his heirs, executors, administrators, or assigns, as the case may be.

15. The person exercising the power of sale hereby conferred shall have power by deed to convey or assign to and vest in the purchaser the property sold, for all the estate and interest therein which the person who created the charge had power to dispose of, except that in the case of copyhold hereditaments the beneficial estate or interest only shall be conveyed to and vested in the purchaser by such deed, and thereupon the purchaser of such copyhold hereditaments shall be entitled to be admitted thereto, without any surrender, for all the copyhold or customary estate therein which the person creating the charge had power to dispose of, on payment of all the customary fines, fees, and other payments which would be payable on surrender and admittance; and no lord of a manor shall be bound or entitled to require any further proof of the due exercise of the power of sale hereby conferred than the production of such deeds of charge and conveyance as aforesaid, nor be liable to any action or suit whatsoever by reason of the sale not having been authorised under this act.

16. At any time after the power of sale hereby conferred shall have become exercisable, the person entitled to exercise the same shall be entitled to demand and recover, from the person entitled to the property subject to the charge, all the deeds and documents in his possession or power relating to the same property, or to the title thereto, which he would have been entitled to demand and recover if the same property had been conveyed, appointed, surrendered, or assigned to, and were then vested in, him for all the estate and interest which the person creating the charge had power to dispose of; and where the legal estate shall be outstanding in a trustee, the person entitled to a charge created by a person equitably entitled, or any purchaser from such person, shall be entitled to call for a conveyance of the legal estate, to the same extent as the person creating the charge could have called for such a conveyance if the charge had not been made.

17. Any person entitled to appoint or obtain the appointment of a receiver as aforesaid may from time to time, if any person or persons has or have been named in the deed of charge for that purpose, appoint such person or any one of such persons to be receiver; or, if no person be so named, then may, by writing delivered to the person, or any one of the persons, entitled to the property subject to the charge, or affixed on some conspicuous part of the property, require such last-mentioned person or persons to appoint a fit and proper person as receiver; and if no such appointment be made within ten days after such requisition, then may in writing appoint any person he may think fit.

18. Receiver to be agent of owner of equity of redemption.

19. Receiver may sue, distrain, recover, and give receipts in the name of either party.

20. Receiver may be removed, and new receiver may be appointed.

21. Receiver may retain commission, not exceeding 5l. per cent. on the gross amount received, as specified in his appointment; if no amount specified, then 5l. per cent.

22. Receiver, if directed in writing by the person entitled to the charge, to insure.

23. Receiver to pay taxes, rates, and assessments, commission, and premiums of insurances, and then interest; and to pay residue to the person entitled to the property subject to the charge.

24. The powers and provisions contained in this part of this act relate only to mortgages or charges made to secure money advanced or to be advanced by way of loan, or to secure an existing or future debt.

25. Trustees with duty to invest may invest in parliamentary stocks or public funds, or in government securities, and vary investments, but with the consent in writing of tenant for life, if any.

26. Where property is held by trustees in trust for an infant, either absolutely, or contingently on his attaining the age of twenty-one years, or on the occurrence of any event previously to his attaining that age, they may pay to the guardians (if any) of such infant, or apply for or towards the maintenance or education of such infant, the whole or any part of the income of such property, whether there be any other fund applicable to the same purpose, or any other person bound by law to provide for such maintenance or education, or not, and shall accumulate the residue; but may apply accumulations as income.

27. Whenever any trustee, either original or substituted, and whether appointed by the Court of Chancery or otherwise, shall die, or desire to be discharged from, or refuse or become unfit or incapable to act in the trusts or powers in him reposed, before the same shall have been fully discharged and performed, it shall be lawful for the person or persons nominated for that purpose by the deed, will, or other instrument creating the trust (if any), or if there be no such person, or no such person able and willing to act, then for the surviving or continuing trustees or trustee for the time being, or the acting executors or executor, or administrators or administrator of the last surviving and continuing trustee, or for the last retiring trustee, by writing, to appoint any other person to be a trustee in the place of the trustee so dying, or desiring to be discharged, or refusing or becoming unfit or incapable to act as aforesaid; and so often as any new trustee shall be so appointed as aforesaid, all the trust property (if any) which for the time being shall be vested in the surviving or continuing trustees or trustee, or in the heirs, executors, or administrators of any trustee, shall with all convenient speed be conveyed, assigned, and transferred, so that the same may be legally and effectually vested in such new trustee, either solely, or jointly with the surviving or continuing trustees or trustee, as the case may require; and every new trustee to be appointed as aforesaid, as well before as after such conveyance or assignment as aforesaid, shall have the same powers, authorities, and discretions, and shall in all respects act, as if he had been originally nominated a trustee by the deed, will, or other instrument creating the trust.

28. The power of appointing new trustees hereinbefore contained may be exercised in cases where a trustee nominated in a will has died in the lifetime of the testator.

29. The receipts in writing of any trustees or trustee for any money payable to them or him by reason or in the exercise of any trusts or powers reposed or vested in them or him shall be sufficient discharges for the money therein expressed to be received, and shall effectually exonerate the persons paying such money from seeing to the application thereof, or from being answerable for any loss or misapplication thereof.

30. Executors may pay debts or claims upon any evidence that they think sufficient, and accept composition, or security, real or personal, for debts, and allow time for payment, and compound, or submit to arbitration.

31. For the purposes of this act, a person shall be deemed to be entitled to the possession or to the receipt of the rents and income of land or personal property, although his estate may be charged or incumbered, either by himself or by any former owner, or otherwise howsoever, to any extent; but the estates or interests of the parties entitled to any such charge or incumbrance shall not be affected by the acts of the person entitled to the possession or to the receipt of the rents and income as aforesaid, unless they shall concur therein.

32. Powers or incidents hereby conferred not to take effect contrary to or otherwise than subject to express declaration in instrument.

33. The provisions contained in this act shall extend only to persons entitled or acting under a deed, will, codicil, or other instrument executed after the passing of this act, or under a will or codicil confirmed or revived by a codicil executed after that date.

34. This act shall not extend to Scotland.

The Queen has been pleased to confer the honour of Knighthood upon Colin Blackburn, Esq., one of the Judges of her Majesty's Court of Queen's Bench; also upon James Plaisted Wilde, Esq., one of the Barons of her Majesty's Court of Exchequer.

## COURT OF QUEEN'S BENCH.

EASTER TERM.—23 VICTORIA.—April 30, 1860.

This Court will hold sittings on Wednesday, the 9th, and Thursday, the 10th days of May next, and will at such sittings proceed in disposing of the cases of *Harwood and Another, Executors, &c., v. The Great Northern Railway Company*, and *Doulton v. Stiff*; and afterwards the other cases standing in the New Trial Paper.

BY THE COURT.

COMMISSIONER TO ADMINISTER OATHS IN COMMON LAW.—Robert Voss, Gent., of the Town Hall, Bethnal-green, Middlesex, has been appointed a London Commissioner for administering oaths in common law in the Court of Common Pleas.

Christopher Temple, Esq., the Chancellor of the county palatine of Durham, has appointed Frederick Augustus Lewis, Gent., of No. 7, Trafalgar-place East, Hackney-road, Shoreditch, Middlesex, to be a Commissioner for taking and swearing affidavits to be read and made use of in the Court of Chancery of the county palatine of Durham and Sudbergy.

## SCOTCH SEQUESTRATIONS.

*Smith, Roger, & Smith*, Glasgow, merchants.—*Hugh Sandeman Brown*, deceased, Perth, potato merchant.—*Alfred Moore*, Edinburgh, photographer.

TUESDAY, May 1.

## BANKRUPTS.

ROBERT DAWSON CLEGG and FREDERICK ANGERSTEIN, Friday-street, Cheapside, and Fleet-street, City, dealers in atmospheric clocks, May 9 at half-past 11, and June 13 at 12, London: Off. Ass. Stansfeld; Sol. Solomon, 22, Finsbury-place, London.—Pet. f. April 17.

WILLIAM PYMAR GOOSE, Downham Market, Norfolk, builder, May 15 and June 12 at 1, London: Off. Ass. Edwards; Sols. Wilkin, King's Lynn, Norfolk, and 3, Farnival's-inn, London; Doyle, 2, Verulam-buildings, London.—Pet. f. April 19.

SAMUEL GOSTLING, Castle Acre, near Swaffham, Norfolk, butcher, May 15 at 2, and June 12 at 12, London: Off. Ass. Edwards; Sol. Plimsaul, 7, South-square, Gray's-inn, London.—Pet. f. April 27.

WILLIAM COOPER, Cheriton, near Alresford, Southampton, builder, May 12 at half-past 11, and June 12 at 2, London: Off. Ass. Lee; Sols. Clark, Bishop's Waltham, Hampshire; Godwin, 4, Essex-court, Temple, London.—Pet. f. April 19.

JAMES EDWARD CLARIDGE, Hill Croome, Worcestershire, and Charlborough, Oxfordshire, cattle salesman, May 12 and June 7 at 11, Birmingham: Off. Ass. Whitmore; Sols. Badham & Brookes, Tewkesbury; James & Knight, Birmingham.—Pet. d. April 25.

WILLIAM HIGGINS MERRICK, Halesowen, Worcestershire, innkeeper, May 14 and June 4 at 11, Birmingham: Off. Ass. Whitmore; Sols. James & Knight, Birmingham, agents for Plunkett, West Bromwich.—Pet. d. April 26.

JAMES DOWELL, Birmingham, licensed victualler, May 12 and June 7 at 11, Birmingham: Off. Ass. Kinnear; Sol. Suckling, Birmingham.—Pet. d. April 23.

THOMAS BROOKES, Birmingham, shoe manufacturer, May 12 and June 7 at 11, Birmingham: Off. Ass. Kinnear; Sol. East, Birmingham.—Pet. d. April 27.

JOHN LANCEY, Barnstaple, Devonshire, line-draper, May 16 and June 13 at 12, Exeter: Off. Ass. Hirtzel; Sols. Terrell, Exeter; Chapple, 19, Great Carter-lane, London.—Pet. f. April 24.

JOHN LAFFERE, Plymouth, Devonshire, chemist and druggist, May 14 and June 4 at half-past 12, Plymouth: Off. Ass. Hirtzel; Sols. Beer & Rundle, Devonport.—Pet. f. April 18.

HENRY WILLIAM LARARD, Hull, Yorkshire, jeweller, May 23 and June 20 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sols. Bartlett & Son, Birmingham; Bond & Barwick, Leeds.—Pet. d. April 19.

HENRY HAYWOOD, alias JOSEPH HAYWOOD, Coventry, Warwickshire, ribbon manufacturer, May 16 and June 11 at 11, Birmingham: Off. Ass. Whitmore; Sols. James & Knight, Birmingham; Martin & Co., Mincing-lane, London.—Pet. d. April 21.

ROBERT BLAKE FOSTER and JOHN FRASER, Liverpool, commission agents, (trading under the style or firm of Foster, Fraser, & Co.), May 15 and June 4 at 11, Liverpool: Off. Ass. Bird; Sols. Neal & Martin, Liverpool.—Pet. f. April 26.

WILLIAM SMITH, South Shields, Durham, shipowner, May 9 at 12, and June 8 at half-past 11, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Hodge & Harle, Newcastle-upon-Tyne; Sudlow & Co., 38, Bedford-row, London.—Pet. f. April 23.

## MEETINGS.

*Joseph Haley and Wm. Thomason*, Manchester, cotton manufacturers, May 25 at 12, Manchester, aud. ac. joint est., and aud. ac. sep. est. of *Wm. Thomason*.—*Charles Flegg*, Great Yarmouth, Norfolk, milliner, May 24 at 12, London, div.—*James Ormond Cole*, Orchard-street, Poplar, Middlesex, rigger, May 24 at 11, London, div.—*Robert Walton Feast and Henry Feast*, Victoria-road, Lower-road, Islington, Middlesex, out of business, May 24 at 1, London, div.—*Wm. Marrie*, Nottingham, draper, May 22 at half-past 11, Nottingham, aud. ac. and div.—*Edward Williams and John Williams*, Dudley, Worcestershire, June 4 at 11, Birmingham, div.—*J. Fletcher Lace*, Birkenhead, and *Leonard Addison*, Abbot's Grange, Cheshire, printers, May 22 at 11, Liverpool, div.

## CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

*Emma Newcastle*, Bedford-street, Bedford-row, Holborn, Middlesex, licensed victualler, May 23 at 12, London.—*R. Miller* the younger and *Edward Lamburn Munns*, Primrose-street, Bishopsgate, City, export oilmen, May 24 at 12, London.—*John Harris*, Littledeans-hill, Lea Bailly, Gloucestershire, innkeeper, June 4 at 11, Bristol.—*Eleazar Slader*, Bridport, Dorsetshire, grocer, June 1 at 12, Exeter.—*Antonio Calvocoresi*, Manchester, merchant, May 23 at 12, Manchester.—*Solomon Portman*, Oldbury, Worcestershire, innkeeper, June 11 at 11, Birmingham.—*W. Roberts*, Coventry, Warwickshire, builder, June 11 at 11, Birmingham.—*Thos. Leah and Herbert Leah*, Liverpool, merchants, May 22 at 11, Liverpool.—*Sylvester Matison*, Liverpool, butcher, May 23 at 12, Liverpool.—*James Wooldridge*, Lincoln, fellmonger, May 23 at 12, Kingston-upon-Hull.—*Henry F. Kemp* and *William Shey*, Louth, Lincolnshire, distillers, May 23 at 12, Kingston-upon-Hull.—*Robinson Cross*, Hagworthingham, Lincolnshire, grocer, May 23 at 12, Kingston-upon-Hull.

To be granted, unless an Appeal be duly entered.

*Isaac White*, Biggleswade, Bedfordshire, ironmonger.—*Adolph Worman*, Minories, City, and Alfred-street, Bow-road, Middlesex, boot manufacturer.—*Charles Flegg*, Great Yarmouth, Norfolk, milliner.—*David Simpson*, Hatton-garden, Middlesex, goldsmith.—*Thomas Jackson*, Cannon-street, City, contractor.—*John Field*, Hackney-road, Middlesex, boot manufacturer.—*Thomas L. Story*, Thrapston, Northamptonshire, tailor.—*Jos. Tilley*, St. Andrew's-road, Horse-monger-lane, Southwark, Surrey, licensed victualler.—*David Stodhart Oliver*, Bristol, wine merchant.—*Thomas Underwood* the younger, Cardiff, Glamorganshire, ironmonger.—*James Warren*, East Stonehouse, Devonshire, licensed victualler.—*Wm. J. Scribbin*, Plymouth, Devonshire, butcher.—*Edward Elliott*, Berwick-upon-Tweed, quarryman.—*Jas. Morrison and Lars O. Abelin*, Liverpool, ship chandlers.—*Samuel J. Bach*, Kingston-upon-Hull, tailor.—*Noah George Bond*, Huddersfield, Yorkshire, bookseller.—*Isaac Thomas Perrins*, Dudley, Worcestershire, iron merchant.—*Isaac H. Bedford and Henry Lighton*, Birmingham, cut glass manufacturers.—*John Geard Bedells*, Brewwood, Staffordshire, chemist.

## SCOTCH SEQUESTRATIONS.

*Peter Brown*, Aberlady, Haddingtonshire, wright.—*D. McCallum*, Glasgow, wright.—*Andrew Christie*, Edinburgh.—*Wm. J. Smith*, Portobello, near Edinburgh, commission merchant.—*John J. D. Coutts*, Kilsyth, wright.—*William Wright*, Edinburgh, shoemaker.—*Robert Buchanan*, Glasgow, newspaper proprietor.

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## GAZETTES.—FRIDAY, May 4.

## BANKRUPTS.

**BENJAMIN THOMAS OAKSHOTT**, Portsea, Southampton, licensed brewer, May 17 at half-past 11, and June 14 at 12, London: Off. Ass. Johnson; Sols. Pafford & Price, Portsea; Low, 65, Chancery-lane, London.—Pet. f. April 24.

**CHARLES SHARPHOUSE DUGGAN**, Bridge-house-place, Newington-causeway, Surrey, wholesale stationer, May 17 at 2, and June 14 at 1, London: Off. Ass. Bell; Sols. Lawrence & Co., 14, Old Jewry-chambers.—Pet. f. May 4.

**HENRY TRENTER**, Ipswich, Suffolk, butcher, May 18 at 12, and June 15 at 11, London: Off. Ass. Canner; Sols. Nichols & Clark, 8, Cook's-court, Lincoln's-inn.—Pet. f. April 27.

**BENJAMIN KURZ**, Rsthouse-place, Oxford-street, Middlesex, manufacturing jeweller, May 14 at half-past 12, and June 18 at 11, London: Off. Ass. Pennell; Sol. Bruton, 3, Lyon's-inn, Strand.—Pet. f. April 28.

**WILLIAM BEDFORD**, Middlesex-street, Whitechapel, Middlesex, baker, May 14 at half-past 11, and June 18 at 12, London: Off. Ass. Pennell; Sol. Taylor, 15, South-street, Finsbury-square.—Pet. f. May 2.

**WILLIAM HARRIS**, Stoke Prior, Worcester, hay dealer, May 17 and June 14 at 11, Birmingham: Off. Ass. Whitmore; Sols. James & Knight, Birmingham; Minshall & Sanders, Bromsgrove.—Pet. d. April 30.

**JOSEPH STANLEY**, Walsall, Staffordshire, draper, May 14 and June 4 at 11, Birmingham: Off. Ass. Klinear; Sols. Sale & Co., Manchester; Hodgson & Allen, Birmingham.—Pet. d. April 20.

**BENJAMIN ABRAHAM**, Taunton, Somersetshire, jeweller, May 17 and June 18 at 12, Exeter: Off. Ass. Hirtzel; Sol. Terrell, Exeter.—Pet. f. May 2.

**ISAAC HANSON**, Halifax, Yorkshire, innkeeper, May 21 at half-past 12, and June 18 at 11, Leeds: Off. Ass. Hope; Sols. Mitchell, Halifax; Bond & Barwick, Leeds.—Pet. d. May 1.

**THOMAS MOORE**, Morland, Westmorland, grocer, May 10 at half-past 11, and June 14 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Hoyle, Newcastle-upon-Tyne; Wilson, Kendal.—Pet. f. April 23.

## MEETINGS.

*Alexander Jacobson*, Tysoe-street, Clerkenwell, Middlesex, dealer in watches, May 16 at half-past 1, London, last ex.—*Geo. Batters*, Hatcham, Surrey, starch manufacturer, May 18 at 1, London, aud. ac.; May 25 at 1, div.—*John Whittaker Bush*, Wandsworth, Surrey, colour manufacturer, May 22 at 2, London, aud. ac.—*George Clark*, Ashford, Kent, builder, May 14 at 11, London, aud. ac.—*Thomas Nicholson* the younger and *Isaiah Birt Nicholson*, Gloucester, slate merchants, May 24 at 11, Bristol, aud. ac. sep. ests.; June 7 at 11, aud. ac. joint est.—*Henry Smart*, Gloucester, printer, May 24 at 11, Bristol, aud. ac.—*Joshua Fletcher Lacey*, Birkenhead, and *Leonard Addison*, Abbott's-grange, Cheshire, printers, May 15 at 11, Liverpool, aud. ac. joint est., and aud. ac. sep. est. of *Joshua Fletcher Lacey*.—*Wm. Rant Redgrave*, Norwich, chemist, and *Surlingham*, Norfolk, manufacturing chemist, May 25 at 11, London, div.

## CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*John Roe*, Little Yarmouth, Suffolk, merchant, May 25 at half-past 1, London.—*Wm. Jones*, New-road, Whitechapel, Middlesex, dairyman, May 25 at half-past 1, London.—*T. Nicholson* the younger and *Isaiah B. Nicholson*, Gloucester, slate merchants, June 4 at 11, Bristol.—*William Moncrieff Bell*, Liverpool, draper, May 25 at 11, Liverpool.

*To be granted, unless an Appeal be duly entered.*

*Benjamin Burlington*, Chancery-lane, City, builder.—*W. Chennorth Caldwell*, Nassau-place, Commercial-road East, Middlesex, tailor.—*Geo. Clarke*, Streatham-place, Brixton-hill, Surrey, carpenter.—*Thos. Sharp*, Aldershot, Southampton, hotel keeper.—*Geo. Nash*, Leighton Buzzard, Bedfordshire, bricklayer.—*Edwin Hawker*, Southampton, homoeopathic chemist.—*John Rowlason* and *John Brooke*, Liver-

pool, builders.—*John Ford*, Liverpool, corn merchant.—*R. Hays*, Heywood, Lancashire, provision dealer.

## BANKRUPT ANNULLLED.

*James Long*, Leeds, Yorkshire, spirit merchant.

## SCOTCH SEQUESTRATIONS.

*Edward John Dean Paul*, Glasgow.—*Henry Jamieson McArthur*, Crosshill, West Kilbride, commission agent.—*J. Esmaie*, Dunfermline, manufacturer.—*James Henry*, Milton of Campsie, baker.—*John and Anthony Blakis*, Aberdeen, advocates.—*Hugh Greenless*, Paisley, manufacturer.—*Millar & Paterson*, Hamilton, builders.

## TUESDAY, May 8.

## BANKRUPTS.

**EDMUND JONES**, late of Fenchurch-street, London, and Forden-cottage, East Dulwich, Surrey, and now of Woodbine Villas, Bridge-road West, Battersea, Middlesex, hostler, May 18 and June 15 at 1, London: Off. Ass. Whitmore; Sols. Thomsen & Son, 60, Cornhill.—Pet. f. May 4.

**JAMES SMITH**, Fareham, Hampshire, grocer, May 18 at 12, and June 18 at half-past 11, London: Off. Ass. Graham; Sol. Low, 65, Chancery-lane, London.—Pet. f. May 7.

**JOHN WILSON**, formerly of Sunderland, Durham, and now a prisoner for debt in the Queen's Prison, Surrey, shipowner, May 16 at 11, and June 18 at 2, London: Off. Ass. Stansfeld; Sols. J. & J. H. Linklater & Co., 7, Walbrook, London.—Pet. f. April 27.

**GEORGE DRAKE**, Eversholt-street, Camden-town, Middlesex, jeweller, May 18 at 11, and June 15 at half-past 1, London: Off. Ass. Graham; Sol. Rivolta, 10, Montague-street, Russell-square.—Pet. f. May 5.

**JOHN SAMUEL BEALE**, Paddington-green, Middlesex, surgeon, May 22 at half-past 2, and June 19 at 1, London: Off. Ass. Lee; Sol. Gover, 83, Old Jewry, London.—Pet. f. May 4.

**FREDERICK MILLER**, Poland-street, Oxford-street, Middlesex, glass merchant, May 22 at 2, and June 19 at 12, London: Off. Ass. Lee; Sol. Edmunds, 11, St. Bride's-avenue, Fleet-street, London.—Pet. f. May 4.

**JOHN NEWNS** and **JOHN HAMPTON WILKINSON**, Wolverhampton, Staffordshire, drapers, May 24 and June 14 at 11, Birmingham: Off. Ass. Whitmore; Sols. James & Knight, Birmingham; Reed, 3, Gresham-street, London.—Pet. d. April 20.

**VINCENT ALLEN**, Newport, Monmouthshire, draper, May 22 and June 19 at 11, Bristol: Off. Ass. Acraman; Sols. Pain, Newport; Bevan & Co., Bristol.—Pet. f. May 4.

**JAMES PALMER**, Gloucester, ironmonger, May 22 and June 19 at 11, Bristol: Off. Ass. Miller; Sol. Wilkes, Gloucester.—Pet. f. May 4.

**JOSEPH BELL**, Liverpool, shipwright, May 18 and June 14 at 11, Liverpool: Off. Ass. Cazenove; Sols. Neal & Martin, Liverpool.—Pet. f. May 7.

**THOMAS MILLS**, Ashton-under-Lyne, Lancashire, chemist, May 24 and June 14 at 12, Manchester: Off. Ass. Pott; Sols. Lovett & Beckett, Manchester.—Pet. f. April 30.

## MEETINGS.

*Thomas A. Freeth*, Edward-street, Hampstead-road, Middlesex, pianoforte manufacturer, May 26 at 12, London, aud. ac.—*John Pearce*, Holborn-hill, Middlesex, woollendrapier, June 7 at 12, London, aud. ac. and div.—*Joseph C. Ball*, Salisbury, Wiltshire, miller, May 31 at 11, London, aud. ac.—*James Collins*, Oxford, papermaker, May 24 at 11, London, aud. ac.—*Richard Miller* the younger and *Edward L. Munns*, Primrose-street, Bishopsgate, City, wholesale oilmen, May 24 at 12, London, aud. ac.—*John Minorn* the younger, New Bond-street, Middlesex, manufacturer of materials for wax flowers, May 19 at 11, London, aud. ac.—*C. Tubber*, Saltisford, Warwickshire, porter seller, June 8 at 11, Birmingham, aud. ac.—*Matthew Dickinson*, *Wm. Dickinson*, and *Samuel Dickinson*, Liverpool, woollendrapers, May 22 at 11, Liverpool, aud. ac. joint est., and aud. ac. sep. est. of *Wm. Dickinson*.—*James Steedman*, Albany-street, Regent's-park, Middlesex, pianoforte manufacturer, May 31 at 11, London,

[For continuation of Gazette, see p. 183, col. 2.]

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## THE JURIST.

LONDON, MAY 12, 1860.

SINCE our observations on the admissibility in evidence of dying declarations were penned, the case at Gloucester, we alluded to as having given rise to our comment, has come before the Court of Crown Cases Reserved. The Lord Chief Baron, delivering the judgment of the Court, has adhered to the rule in *Mead's case*; and the prisoner in question, by name Hind, will thus escape; and no one can doubt that a failure of justice has taken place. It is true, the Chief Baron expresses a disapproval of the admission of this species of evidence in any case. This is intelligible ground to take up; but then he supports the rule as narrowed in *Mead's case*. But we venture to submit that reason and common sense can suggest no distinction by which it should exist in one case, and not in the others. It may be, that in every instance it should be abolished, in every case admitted; but analogy will admit of no other solution of the question; and the only case in which it is retained is the last in which it should be admitted.

We propose to examine the cases on this subject; and it will appear on the face of them that there has been a complete absence of any guiding principle, and some inaccuracy in some of the learned judges; and Mr. Taylor does not seem to have bestowed the same amount of care on his thirteenth chapter that he has on the other portions of his work. Having stated the principle of this exception in the words of Eyre, C. J., quoted by us on a former occasion, he says—"At one time an opinion prevailed that this general principle warranted the admission of dying declarations in all cases, civil and cri-

iminal; and it was expressly held, by respectable authorities, that the dying declarations of a subscribing witness to a forged instrument were admissible to impeach it." What constitutes a dying declaration is afterwards mentioned by Mr. Taylor, quoting, from *The Sussex Peerage case*, (11 Cl. & Fin. 108, 112), the law as laid down by Lord Denman, to the effect that it is a statement made in extremis and actual danger, with an apprehension of death, (death following). Mr. Taylor gives, in a note, to support his proposition, the cases of *Wright v. Littler*, (3 Burr. 1255); *Aveson v. Kinnaird*, (6 East, 188); *The Bishop of Durham v. Beaumont*, (1 Camp. 210); and *Doe v. Ridgway*, (4 B. & Ad. 55).

*Wright v. Littler* was an action of ejectment. The lessor of the plaintiffs claimed under a will dated 1743; the defendant, under an instrument dated 1745. The subscribing witnesses to the latter deed were dead, but a sister of one of them was called by the plaintiffs to prove that he had on his death-bed stated that the latter deed was a forgery, and that the prior will was the true one. This evidence, which with regard to the forgery came out on the cross-examination of the defendant's counsel, was admitted, and a new trial refused, Lord Mansfield upholding its reception, on the ground that as the defendant had the benefit of the deceased's attestation, and as he might have been called if alive, this was to be considered in the light of a cross-examination, and the fact complained of came out on the defendant's own cross-examination.

The next case is *Aveson v. Lord Kinnaird*, (6 East, 188), in the year 1805. This was an action on a policy of insurance effected on the life of the plaintiff's wife, who had died. The plea was, that she was not in good health, as the plaintiff had stated, at the time of making the policy. The issue was on the truth of the warranty.

A conversation between the deceased wife and one S. L., as to her state of health, when she was not expecting to live, was admitted; a rule nisi was therefore obtained, but was afterwards discharged. Lord Ellenborough took no higher ground than this—that as a surgeon had been called for the plaintiff, to speak to the fact of her being in good health, and as he gave his opinion only, and that opinion was formed upon the answers she made to his questions, his Lordship looked upon what she said upon the same subject to another person as a *species of cross-examination*; whilst Grose, J., agreed, because he considered her account of herself as *the best evidence* the nature of the case afforded.

In this same case Lord Ellenborough mentions a case alluded to by Mr. Taylor, in the same connexion:—“One who was an attesting witness to the supposed execution of a bond died, and after his death an action was brought on the bond, and his handwriting was proved; but I then, of counsel for the defendant, was permitted by Heath, J., to give in evidence that the attesting witness had, in his dying moments, begged pardon of Heaven for having been concerned in forging the bond; and I was permitted to do so, on the authority of the case of *Wright v. Littler*, which I cited. . . Heath, J., admitted the evidence, on the ground, that if the subscribing witness could have been produced at the trial to prove his handwriting to the bond, inasmuch as *I might have cross-examined him* as to the fact, so I might also prove his declaration of the fact, in contradistinction to the presumption of a due execution of the bond from the proof of his handwriting as a subscribing witness.”

Another case is *The Bishop of Durham v. Beaumont*, (1 Camp. 210), which was an issue out of the Court of Chancery to try whether a false representation had been made or not; but the real question in this case was, whether, under the circumstances, evidence as to the general character of a witness was admissible; and the only bearing it has on this question seems to be, that *Wright v. Littler* is mentioned in the judgment.

Mr. Taylor refers also to *Doe v. Ridgway*, (4 B. & Ad. 55), and the judgment therein of Bayley, J., as explanatory of these decisions. In that case, to prove a pedigree, the dying declarations of a servant of a person through whom the pedigree was traced, as to the relationship of the lessor of the plaintiff to the person last seized, were held not to be receivable in evidence.

Mr. Justice Bayley's explanation of the preceding cases is remarkable. He says, “In the case of *Aeson v. Kinnaird* the declarations were received upon a very different principle; there they were part of the *res gestæ*.” He then goes on to say, “And in *Tinkler's case* the declarations received were those of the person who had *taken the poison*.” His Lordship then approves of the case of the subscribing witness, and agrees that the benefit of cross-examination ought to be preserved if possible. His Lordship, however, or his reporter, has fallen into a strange error, for *Tinkler's case* (1 East's P. C. 364) was this:—Margaret Tinkler was indicted for the murder of Jane Parkinson, *by inserting pieces of wood into her womb*. The woman died, and her account of the matter was received. This case, therefore, would range itself under the rule which admits the evidence in cases of homicide.

In another note to the passage we have quoted, Mr. Taylor has been guilty of some inaccuracy; he says, “It was even held that dying declarations of a pauper respecting his settlement were admissible, though that question involved both law and fact.” (*Res v. Bury St. Edmunds*, Cald. 496; *Abbott v. Dunsell*, 2 Bott's P. L. 80). Mr. Taylor adds, “This doctrine is now exploded. (See *Res v. Abernilly*, 2 East, 63; *Stobart v. Dryden*, 1 M. & W. 626).” The cases he quotes in support of the latter proposition by no means bear him out. *Res v. Abernilly* was a settlement case, in which the sessions had received in evidence a declaration of the pauper, (who had since died), taken on oath before two magistrates; but this was not a dying declaration, but made, for aught that appears, when he was in full health, and years before his death; and the point raised in that case was, whether in such cases the magistrates had jurisdiction to administer an oath, so as to liken it to a judgment, and so bind third parties.

With regard to *Stobart v. Dryden*, (1 M. & W. 626), it was an action on a covenant in a mortgage deed, to which there was a plea of non est factum. A man named M'Cree, who on the face of the instrument appeared to be the subscribing witness, being dead, the execution of the deed was proved, in the usual way, by evidence of his handwriting, and the identity of the defendant was shewn by proof of his. For the defendant, declarations of M'Cree of facts tending to prove the deed a forgery were offered in evidence. The evidence was rejected. On motion to make the rule absolute for a new trial, the rule was discharged. But that the case did not touch the present is evident from some of the observations of Parke, B., in delivering the judgment of the Court. He says—“But, on the other hand, if any declarations, *at any time*, from the mouth of subscribing witnesses who are dead, are to be admitted in evidence, (and you cannot stop short of that, for no one contends that the exception is to be confined to death-bed declarations; and if so confined, the evidence would be inadmissible in the present case), the result would be, that the security of solemn instruments would be much impaired.” Of these cases, then, it seems that *Doe v. Ridgway* (4 B. & Ad. 55) is the only one that narrows the application of this doctrine in civil cases.

With regard, then, to the criminal cases. In *Res v. Mead*, (2 B. & Cr. 608), (upon which the last case of *Reg. v. Hind* was founded), the defendant having been convicted of perjury, a rule nisi for a new trial was obtained; whilst that was pending the defendant shot the prosecutor; and on shewing cause against the rule, an affidavit was tendered of the dying declaration of the latter as to the transaction out of which the prosecution for perjury arose. It was not read, because such evidence was admissible only “where the death of the deceased is the subject of the charge, and the circumstances of the death the subject of the dying declaration.” And Abbott, C. J., considered that it was admissible in *Wright v. Littler* and the case before Heath, J., because *it was a confession of a heinous offence*.

And on the same ground was decided *Reg. v. Hutchinson*, (reported in a note to the last case), where the prisoner was indicted for administering poison to a woman



pregnant, but not quick with child, with intent to procure abortion. The woman died, and her dying declarations on the subject were rejected. Then we have a case in Ireland, before Torrens, J., (*Gray's case*, Ir. Cir. Rep. 76)—an indictment for the murder of Owen Murphy. It was proposed to give in evidence the dying declaration of one Charles Wiley, to the effect that he had committed the murder. It was rejected by the judge, because he thought "that a declaration, to be admissible, must be the declaration of the person injured." In *Res v. Lloyd*, (4 Car. & P. 232), on an indictment for robbery, a declaration in articulo mortis by the person robbed was rejected, Bolland, B., putting it upon the ground of *Res v. Mead*; but the prisoners were convicted without this evidence.

Then there is *Res v. Baker*, (2 Moo. & R. 53), which was a case of poisoning. The poison was administered in a cake, at breakfast, to the deceased. The servant who made the cake, in consequence of an observation of her master, took some of it, fell ill, and on her death-bed stated how she had made the cake, and that the prisoner was at the table on which she made it. This declaration was admitted on the ground that it was part of the *res gestæ*. In *Res v. Pile* (3 Car. & P. 568) the declaration was rejected on the sole ground that the child was not under the deep impression of the occasion necessary to make it admissible.

In *Res v. Drummond* (1 Leach's C. C. 637) the prisoner was indicted for a robbery. The prisoner's counsel informed the Court, during the trial, that a person resembling the prisoner had been recently executed for highway robbery, and that just before his death he had communicated something to the chaplain; and this evidence was rejected, on this ground, that he was an incompetent witness, being an attainted convict, and that as his evidence would not be received if living, it could not be made better by his dying.

*Jackson v. Knight* (2 Johns. 81, 35) was sufficiently observed upon on a previous occasion; and in *The Sussex Peerage case* (11 Cl. & Fin. 108) the observations on this subject, so far as they appear to go against this species of evidence, are not made on declarations in extremis.

We have now, we believe, gone through all the cases on this subject.

The result, then, seems to be, that in civil cases, though the reasons given by the learned judges do not support the principle laid down by Mr. Taylor, yet, with the exception of *Des v. Ridgway*, these dying declarations were always admitted; and that Mr. Taylor has through inadvertence quoted *Res v. Aberystwyth* and *Stobart v. Dryden* as exploding the doctrine in settlement cases. That in the criminal cases, with the exception of *Res v. Baker*, where a new ground is taken, they have been always excluded, with the one exception of homicide. But the consequence of endeavouring to support a groundless distinction is to create confusion; and when we find the several cases put by one judge on one ground, and by a subsequent one on another, we have no guide left to us at all. For instance, *Wright v. Lister* is decided by Lord Mansfield, because the benefit of cross-examination ought not to be lost, and because a party ought not to complain of evidence given in answer to his questions. The

same evidence in the same case is stated by Abbott, C. J., in *Res v. Mead*, to be admitted because it is as a confession by the declarant of a heinous offence. Then *Ateson v. Kinnsaird* is put by the judges, who decide it, on the ground of the declaration being the best evidence the case admitted of. But Bayley, J., says it was admitted because it was part of the *res gestæ*. In the *Anonymous case* before Heath, J., mentioned by Lord Ellenborough in *Ateson v. Kinnsaird*, the declaration was stated by him to have been admitted in the place of cross-examination, but by Abbott, C. J., as a confession of a crime. Then, in *Gray's case*, the declaration was a confession of a heinous offence; but Torrens, J., would not admit it. Then, in *Res v. Baker*, the declaration was considered to be a part of the *res gestæ*. If that is a satisfactory reason, the case of *Res v. Lloyd* might with some shew of reason be argued to come within the same reason. In *Drummond's case* the declaration was not suggested as admissible on the ground of its being a confession. We believe that when *Hind's case* comes to be reported, it will be found that the learned judges suggested no reason, beyond a *dislike* to the admission of the species of evidence under discussion.

We think, then, on the whole, that if this species of evidence is to be admitted at all, it cannot be restricted, in reason, to the single instance of homicide; but, on the other hand, if the solemnity of the occasion is not equal to that of an oath, then neither in the case of homicide, nor in any other, civil or criminal, ought it to be admitted.

## Correspondence.

TO THE EDITOR OF "THE JURIST."

SIR,—I was much struck by an article in your number of the 28th April last upon the subject of extending the remedy of specific performance to cases of contracts to mortgage real estate, instead of confining it, for the purpose in hand, to contracts for sale. But the matter which struck me was the writer's grave misconception of what a mortgage is in the contemplation of a Court of equity. He maintains that a mortgage is "analogous" to a purchase, and is, in effect, "a purchase pro tanto." Now, analogy is defined to be a resemblance of relations, and, in order to see whether a mortgage be or be not "analogous" to a purchase, we must first examine what are the relations to be compared.

The relation of purchaser to the thing purchased is this—the purchase gives a right of absolute property, and immediate, perpetual, specific enjoyment of the thing purchased; and a sale, in like manner, divests forever any right in the vendor to possess or enjoy the thing sold, and gives him instead the property in the purchase money. A mortgage, on the other hand, neither gives, nor is intended to give, any immediate right of property, as such, in the thing mortgaged; nor does it give any property to the mortgagor in the mortgage money: the right given to the mortgagee is a right to be repaid the money secured, and to be repaid, if necessary, by the sacrifice of the mortgaged property. This is universally the rule wherever equity has a full jurisdiction, as in the case of an equitable mortgage, where the rule always was, payment, or sale of the mortgaged property. If a mortgagee enters into possession under his legal title, he still is, in equity, considered as an agent of the mortgagor, liable to account

for all he may receive, deducting only his debt, interest, and necessary expenses. The case of foreclosure of a legal mortgage formerly was not a recognition of any contrary principle, but a mere defect of power in the Court of equity, which held that it had no power to interfere, at the suit of the mortgagor, against the common-law right of the mortgagee, unless on the terms of the mortgagor himself doing equity by payment of the debt, &c.; and even this distinction has been done away lately in England, and more than a century in Ireland, by giving the Court power to decree a sale, at the option of either of the parties. The very meaning of saying that a mortgagee is "a purchaser pro tanto" is, that he is the purchaser, not of the "quid" or id quod, but of the tantum quantum—not of the property itself, but of so much money's worth out of the property; he is the purchaser of a right of repayment out of the property—a purchaser of the security, not of that which is the pledge for security. In short, the relation of mortgagee to mortgagor is that of guaranteed creditor to debtor, not of purchaser to vendor.

It was on this ground an old doctrine in equity, that it would never decree a mortgage to be granted, even where there was a contract to execute a legal mortgage part performed, because a mortgage was only a security that the defendant would do what the Court could at once compel him to do, viz. to pay the debt, &c.; and therefore the Court would not decree a mortgage, but would decree payment, and in default of payment, a sale of the property contracted to be mortgaged. The only thing a mortgagee, as such, is entitled to, is payment of his money; if the money is not actually lent, he cannot be entitled to repayment; and this is the case put in the article alluded to. (*Rogers v. Challis*, 6 Jur., N. S., part I, p. 334). The proposed mortgagee may no doubt be injured by the loss of a good investment; but if so, a claim of damages for such loss is, in the words of the Master of the Rolls, "a mere money demand." I do hope, in opposition to the writer of the article in question, that money will not be wasted in further litigating a point so well decided; and if it be, I apprehend with confidence an affirmation of his Honor's judgment, which I cannot help considering to be founded on true and well-established principles of equity.

I am, Sir, your obedient servant,

Georgic.

## THE DIVORCE COURT AND THE COMMON-LAW JUDGES.

THE following is the letter sent by Lord Chief Justice Cockburn to the Lord Chancellor upon this subject, and read by the latter to the House of Lords on the 26th ult. :—

"April 24, 1860.

"My Lord,—Understanding that the bill introduced by your Lordship for remodelling the Divorce Court is about to be discussed in the House of Lords, it occurs to me that it may not be inexpedient that your Lordship should be possessed of the view taken by the judges of this matter after a practical experience of two years.

"I trust, therefore, I am not stepping beyond my province in conveying to your Lordship what I know to be the unanimous opinion of the judges, that the attendance of the common-law judges in the Divorce Court, and their consequent withdrawal from the courts to which they properly belong, cannot be continued without great inconvenience and detriment to the judicial department of the public service; while, on the other hand, no corresponding advantage results to the constitution of the Divorce Court itself.

"The fact is, that at the present time the judicial establishment in the superior courts of common law is not more than barely adequate to the discharge of those

duties which were incidental to the judicial office before this new duty was imposed on them.

"For though it is true that the county courts have to a considerable extent relieved the superior courts of a large extent of the lighter and less important cases, yet the amount of business in the latter never was heavier than at the present moment. The increase of population and of commercial and manufacturing activity, the multiplication of inventions and patents, the right recently conferred on the representatives of deceased persons, where loss of life has resulted from negligence, to bring actions for compensation, the facility afforded by railways for bringing causes to London for trial, with other circumstances unnecessary to detail, produce an amount of important business which presses heavily on the Courts; more especially as the modern changes in our procedure, (I allude more particularly to the examination of parties, which leads to the calling of witnesses for the defendant in almost every case, and to the allowing of second speeches to counsel for defendants), while tending materially to promote justice, have, on the other hand, a necessary tendency to prolong proceedings in court, and to occupy time. Besides this, new duties have been thrown on the Courts; for instance, on the Court of Queen's Bench, by the power of appeal from the decision of magistrates in petty sessions, given by the act of the 20 & 21 Vict., which, added to the former appeals from quarter sessions, produces an amount of Crown business which occupies the Court two days a week in every term; on the Court of Common Pleas by the reference to that Court of questions arising on the Railway and Canal Traffic Acts, and of appeals from the decisions of revising barristers.

"The effect of the whole is, that the utmost diligence and activity of the judges is no more than adequate to prevent the accumulation of arrears to a serious and mischievous extent.

"In term time it is, as your Lordship is aware, absolutely necessary that Nisi Prius sittings should be constantly going on. One judge in each court being thus employed, four would be left for the sittings in Banco, were it not that during one-half of the day another judge is required to attend at chambers, whereby the number is reduced to three. I trust your Lordship will concur with me in thinking that the number of the judges for sittings in Banco ought not to be reduced below the ancient and accustomed number. It is the unanimity of so many as four judges, or, in the event of difference, the proportion of the majority, which has given so much authority to the decision of these Courts. It is, no doubt, impossible to prevent the number from being at times reduced to three by the incidents to which I have referred; but when it is considered that the Court, on applications for new trials, is practically a Court of appeal from the ruling of single judges, or from the decisions of juries, that it is often called upon to decide difficult and complicated questions of law, and to settle the construction of important acts of Parliament, I feel assured I shall have the sanction of your Lordship's opinion in saying that the number of the sitting judges of each court ought not to be intentionally reduced below three. Yet the withdrawal of one of the judges for the purposes of the Divorce Court has necessarily the effect of reducing the number to two during a portion of every sitting, and in case of absence by ill-health or other casualty, would have the effect of reducing the Court to a single judge, or, as the alternative, of preventing the sitting at Nisi Prius or attendance at chambers.

"Out of term the inconvenience is still greater. The state of the cause lists necessitates, as your Lordship knows, the constant sitting of the two Courts. Attendance at chambers continues to be as necessary as in term. Post-terminal sittings in Banco are indispensable to dispose of the arrears of term business; and at this

period occur the sittings of the Court of Error in the Exchequer Chamber, in which the presence of as many judges as possible is most desirable, and less than six ought not to be dispensed with. Any one of these important Courts may be suspended by the withdrawal of two judges (or even of a single one) from their proper and primary duties.

"I have omitted to advert to the sittings of the Central Criminal Court, as well as to the recently established Court of Criminal Appeal, which constitute an additional drain on the strength of the judicial establishment.

"These explanations, of which, fortunately, no one can be better qualified to form a correct estimate than your Lordship, will, I conceive, fully bear out the opinion expressed by the judges as the result of their practical experience.

"Equally strong and general is the opinion that the expenditure of judicial force involved in the attendance of the judges in the Divorce Court is, for the most part, pure waste, uncompensated by any advantage to the administration of justice in that court. The great majority of cases dealt with in the Court of Divorce are either undefended, or the facts are too clear to admit of doubt, or, at all events, the question to be decided is one of fact alone, determinable by the evidence, and with which a judge, or a judge and jury, are perfectly competent to deal, just as the latter would before have been in an action for criminal conversation, or a judge would have been in a suit for divorce in the Ecclesiastical Court. Collusion, the apprehension of which excites so much alarm in these cases, occurs, I am satisfied, much less frequently than seems to be supposed. Where it does, the sagacity and acuteness of one competent judge, especially of so eminently distinguished and able a judge as Sir Cresswell Cresswell, may well be expected to detect and frustrate it. At the same time, as cases will no doubt at times occur involving more than ordinary difficulty, and in which the Judge Ordinary may desire assistance, if in such cases no other means can be resorted to for strengthening the Court than the having recourse to the judges, of course the latter must do their utmost to render the required assistance, so far as this can be made consistent with the exigencies of their more immediate duties. What they at present object to, and strongly feel, is the idle waste of their time, imperatively called for elsewhere, in sitting to hear causes in which there is neither necessity nor occasion for their taking part at all. At all events, they confidently trust that the Legislature will relieve them from attendance on the Divorce Court, except where the Judge Ordinary requires their aid, or where appeals are brought against his decisions.

"I have the honour to be, my Lord,

"Your obedient and faithful servant,

"A. E. COCKBURN."

"To the Right Hon. the Lord Chancellor."

An American lawyer, Jeremiah Mason, was engaged in the defence of a Methodist minister, by name Avery, on a charge of murder. The professional character of the prisoner interested deeply his brother ministers, who in numbers attended the trial. The case was very serious, and the advocate was absorbed in intently watching the progress of the evidence, carefully noting it, and observing its effect on the jury, when one of these ministers, who would now be called a spiritualist, was led to his side, and, in great agitation, said, "Mr. Mason, Mr. Mason, I have most important matter to communicate. The Archangel Gabriel came to my bedside this morning, and told me that Brother Avery was innocent." Without lifting his eyes or his pen from the paper, Mason replied, "Let him be subpoenaed immediately!" and continued his work.—*The Bar of Philadelphia—The Quarterly Review*, April, 1860.

div.—Wm. White, Shadwell, Middlesex, miller, May 29 at 1, London, div.—George S. Jewell, Willow-walk, Bermondsey, and Albany-road, Camberwell, Surrey, builder, May 29 at 1, London, fin. div.—Thomas Keating, St. Paul's-church-yard, City, druggist, June 1 at 11, London, div.—Henry Stuart and Richard Kennett, Cork-street, Burlington-gardens, Middlesex, tailors, May 29 at 12, London, div.—Stephen Margetts, Birmingham, licensed victualler, June 8 at 11, Birmingham, div.—William R. Lowe, Wolverhampton, Staffordshire, manufacturing chemist, June 8 at 11, Birmingham, div.—Samuel Penn and Joseph Penn, Birmingham, tailors, June 8 at 11, Birmingham, div.—James Morrison and Lars O. Abelin, Liverpool, ship chandlers, May 31 at 11, Liverpool, div. sep. esta.

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The Queen has been pleased to appoint Adams G. Archibald, Esq., to be Attorney-General, and Jonathan M'Cully, Esq., to be Solicitor-General, for the Province of Nova Scotia.

Christopher Temple, Esq., the Chancellor of the county palatine of Durham, has appointed Frederick Augustus Lewis, Gent., of No. 7, Trafalgar-place East, Hackney-road, Shoreditch, in the county of Middlesex, to be a commissioner for taking and swearing affidavits to be read and made use of in the Court of Pleas in and for the county palatine of Durham.

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## GAZETTES.—FRIDAY, May 11.

## BANKRUPTS.

CHARLES DAWSON, Wisbeach St. Peter, Cambridgeshire, dealer in china, May 24 at 12, and June 21 at 1, London: Off. Ass. Bell; Sols. Abbott & Co., 8, New-inn, Strand.—Pet. f. May 9.

THOMAS LEE, George-yard, Lombard-street, London, and Birmingham, merchant, May 24 and June 21 at 2, London: Off. Ass. Johnson; Sols. Lawrance & Co., Old Jewry-chambers.—Pet. f. May 10.

EDMUND JONES, late of Fenchurch-street, London, and Forden Cottage, East Dulwich, Surrey, and now of Woodbine Villas, Bridge-road West, Battersea, Surrey, (and not Middlesex, as before advertised), hosier, May 18 and June 15 at 1, London: Off. Ass. Whitmore; Sols. Thomson & Son, 60, Cornhill.—Pet. f. May 4.

WILLIAM PORTEOUS, Brighton, Sussex, linen-draper, May 24 at half-past 1, and June 22 at 1, London: Off. Ass. Whitmore; Sols. Lamb, Brighton; J. & J. H. Linklater & Co., 7, Walbrook, London.—Pet. f. May 11.

JAMES HELLINGS, Edgware-road, Paddington, Middlesex, cowkeeper, May 25 at half-past 11, and June 22 at 11, London: Off. Ass. Cannan; Sol. Field, 40, Ely-place, Holborn.—Pet. f. May 4.

CHARLES STANBRIDGE, Cheapside, City, merchant, May 25 at 12, and June 22 at half-past 11, London: Off. Ass. Cannan; Sols. Lumley & Lumley, 41, Ludgate-street.—Pet. f. April 4.

WILLIAM RAY, formerly of Chesterford-terrace, St. Thomas's-square, Hackney, Middlesex, and afterwards of Norman-terrace, Wellington-road, Stockwell, Surrey, ship-owner, (now a prisoner for debt in the Queen's Prison), May 18 at half-past 11, and June 20 at 1, London: Off. Ass. Graham; Sol. Redpath, 27, Walbrook, London.—Pet. f. May 5.

HENRY POWNCEBY, Leman-street, Whitechapel, Middlesex, printer, May 18 at 1, and June 20 at 12, London: Off. Ass. Stansfeld; Sols. Harrison & Lewis, 6, Old Jewry.—Pet. f. May 8.

JOEL FOX, Norwich, furrier, May 23 at half-past 1, and June 20 at half-past 12, London: Off. Ass. Stansfeld; Sols. Sole & Co., 68, Aldermanbury, London.—Pet. f. May 9.

EDWARD RICHARDS SHERREN, Richmond Villas, Westbourne-grove North, Bayswater, Middlesex, builder, May 24 at 2, and June 19 at half-past 2, London: Off. Ass. Edwards; Sol. Daniel, 8, Lancaster-place, Strand.—Pet. f. May 8.

JOHN PARNELL, Oxford-street, Middlesex, linen-draper, May 24 at half-past 2, and June 19 at 2, London: Off. Ass. Lee; Sol. Devonshire, 8, Old Jewry.—Pet. f. May 11.

THOMAS STURLEY, Harbury, near Southam, Warwickshire, licensed victualler, May 25 and June 15 at 11, Birmingham: Off. Ass. Whitmore; Sols. Hodgson & Allen, Birmingham; Wallington & Wright, Leamington.—Pet. d. May 8.

HENRY NEWLAND, Newcastle-under-Lyme, Staffordshire, miller, May 23 and June 13 at 11, Birmingham: Off. Ass. Kinnear; Sol. Litchfield, Newcastle-under-Lyme.—Pet. d. May 8.

JONATHAN MOREHOUSE the younger, New Mill, near Huddersfield, Yorkshire, woollen-cloth manufacturer, May 25 and June 22 at 11, Leeds: Off. Ass. Young; Sols. Hesp & Owen, Huddersfield; Bond & Barwick, Leeds.—Pet. d. May 2.

SAMUEL WRIGHT, Manchester, hotel keeper, June 6 and 27 at 12, Manchester: Off. Ass. Pott; Sols. Higson & Robinson, Manchester.—Pet. f. May 4.

THOMAS CHARLTON RICHARDSON, West Auckland, Durham, druggist, May 22 at half-past 11, and July 4 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Harle & Co., Newcastle-upon-Tyne, and 20, Southampton-buildings, Chancery-lane, London.—Pet. f. May 9.

## MEETINGS.

Thomas Davis, Chapel-street, St. George the Martyr, Middlesex, hotel keeper, May 23 at 12, London, last ex.—William Rothwell, Enfield-highway, Middlesex, boarding-house keeper, May 23 at half-past 11, London, and. ac.—John

Chamberlin, Rupert-street, Haymarket, Middlesex, wheelwright, May 23 at 12, London, and. ac.—Kemp Goldsmith, Sutton, near Ely, Cambridgeshire, miller, May 29 at 1, London, and. ac.—David Goodman, Cardiff, Glamorganshire, watchmaker, May 31 at 11, Bristol, and. ac.—Grace Keenor and Sophia Baillie, Exeter, milliners, May 23 at 1, Exeter, and. ac.—Henry Stephens, Exeter, innkeeper, May 23 at 1, Exeter, and. ac.—J. Lancey, Barnstaple, Devonshire, linen-draper, May 23 at 1, Exeter, and. ac.—Philip Hawks, Kinson-lodge, near Poole, Dorsetshire, brickmaker, May 23 at 1, Exeter, and. ac.—William Higgins and Thomas Higgins, Old Bond-street, Middlesex, hosiers, June 7 at 11, London, div.—Joseph R. Gurney, Chalfont St. Giles, Buckinghamshire, farmer, June 8 at half-past 11, London, div.—Shrewsbury Gifford, Newport, Essex, corn dealer, June 5 at 12, London, div.—Edward Philip Harding, Gravesend, Kent, hosier, June 2 at half-past 12, London, div.—James Melling and Robert Carr, Attercliffe-cum-Darnall, Yorkshire, glass manufacturers, June 2 at 10, Sheffield, div. sep. est. of Robert Carr.—John Taylor, Sheffield, Yorkshire, auctioneer, June 2 at 10, Sheffield, div.—Joshua Eyre, Sheffield, Yorkshire, grocer, June 2 at 10, Sheffield, div.—Matthew Hind, Durham, grocer, June 6 at half-past 11, Newcastle-upon-Tyne, first and fin. div.

## CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Stephen Adolphus Johnson, Broad-street-buildings, City, commission agent, June 1 at 11, London.—Charles Helliworth Tidbury, Lavender-dock-wharf, Surrey, and Great James-street, Bedford-row, Middlesex, wharfinger, June 1 at 1, London.—William Henry Knight, Powell-street, Kings-square, St. Luke's, Middlesex, watch-tool dealer, June 8 at 12, London.—George Read, Portsmouth and Southampton, cattle dealer, June 1 at half-past 1, London.—Anthony Barnaschina, Gravesend, Kent, general dealer, June 4 at half-past 12, London.—John Perkins, Oakham, Rutlandshire, haberdasher, June 5 at half-past 2, London.—John Lox, Cheltenham, Gloucestershire, printer, June 11 at 11, Bristol.—Thomas Lilley, North Shields, Northumberland, merchant, June 6 at 12, Newcastle-upon-Tyne.—Samuel Stevenson, Leicester, dealer in yarns, June 5 at half-past 11, Nottingham.—John Webster, Wavertree, near Liverpool, joiner, June 4 at 12, Liverpool.—Joseph Kershaw and William George Kershaw, Wakefield, Yorkshire, stonemasons, June 1 at 11, Leeds.—George Crooks, Leeds, Yorkshire, grocer, June 1 at 11, Leeds.—John Boucher, Blackwell, Derbyshire, dealer in timber, June 2 at 10, Sheffield.—Joseph Richmond, Bradway, Norton, Derbyshire, cornfactor, June 2 at 10, Sheffield.—James Melling and Robert Carr, Attercliffe-cum-Darnall, Yorkshire, glass manufacturers, June 2 at 10, Sheffield.—Thomas Lofthouse, Sheffield, Yorkshire, coal dealer, June 2 at 10, Sheffield.

To be granted, unless an Appeal be duly entered.

Abraham Davis, Camden-terrace, Camden-town, Middlesex, commission agent.—William Myrnn, Queen's-head-yard, Borough, Surrey, manure merchant.—Richard Westcott, Reading, Berkshire, butcher.

## SCOTCH SEQUESTRATIONS.

Samuel Holburn Fyfe, Glasgow, ship chandler.—Robert Keddie, Pittenweem, Fifeshire, coalmaster.—Wm. Letham, Wishaw, ironmonger.—John Grant, Edinburgh, commission agent.—Alexander Rowan, Glasgow, engraver.

## TUESDAY, May 15.

## BANKRUPTS.

HENRY MUGGERIDGE, St. George's-place, Brixton-road, Surrey, builder, May 25 and June 22 at 12, London: Off. Ass. Cannan; Sol. Chaffers, 43, Bedford-row.—Pet. f. May 11.

SAMUEL FREEMAN and JOHN CLIFFORD, Leicester, elastic-web manufacturers, May 31 and June 21 at 11, Nottingham: Off. Ass. Harris; Sols. Power & Pilgrim, Atherstone; Hodgson & Allen, Birmingham; Stevenson, Leicester.—Pet. d. May 12.

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## THE JURIST.

LONDON, MAY 19, 1860.

SIMPLICITY and cheapness in conveying or otherwise dealing with property, if one may judge by the numerous attempts at legislation having this object in view, would seem to be one of the great wants of the age.

Few of these attempts have been very successful, and it is at any rate doubtful whether our laws relating to real property, or the present system of conveyancing, will be much improved by the interference of the Legislature.

We do not think that the number of those persons is great among the owners of property who would desire so far to alter our institutions as to abolish entails, or the law of primogeniture, or to take away from the owners the complete power of disposing of property *inter vivos* or by will, subject only to those restrictions such as the rule against perpetuities and the Mortmain Act have wisely interposed. Still less do we think that any man with a reflecting mind would wish to render the subdivision, especially of landed property, compulsory. The state of France, where revolutionary laws have given the greater part of that country into the hands of small pauper proprietors, will, we should think, be sufficient to deter England from making any alteration of the laws having even a tendency or leaning in the same direction. This feeling, in all probability, will prevent such members of our Legislature as Mr. Locke King ever prevailing upon a majority of the House of Commons, as at present constituted, to assimilate the devolution of real property on intestacy to that of personal pro-

perty; for although the owner of real property would still have power to keep it together by will or settlement, still such a change in the law would be an important step towards a compulsory division of real property on the owner's death.

As long, however, as the owners of property are allowed to dispose of it (subject to the restrictions already mentioned) as they please, they will doubtless endeavour to keep it as long as they possibly can undivided in the head for the time being of their own family; or, in other words, put it into settlement by a mode more or less strict. This naturally leads to some complexity in the forms of conveyancing necessary in order to carry their wishes into effect; and the system invented by a succession of learned and able lawyers in this branch of the Profession is most admirably adapted for this purpose. For while life interests only are given to some persons in property put into settlement by will or deed, the inconveniences which might result from the limited nature of such estates, or from other estates of a higher nature being vested in infants, are overcome by the machinery of trusts and powers of different kinds, whereby the property may be dealt with in as complete a manner, for all useful purposes, as if it were vested in an owner in fee-simple of full age, with this sole exception, that it cannot be dissipated, and lost to the family. Hence powers of leasing, powers of sale and exchange, of enfranchisement, of raising money for portions, jointures, &c., of giving receipts, of appointing new trustees, are introduced into instruments putting land into settlement. The insertion of these powers and other provisions in settlements and wills necessarily leads to the result that they are lengthy and somewhat expensive. Hence law reformers have endeavoured to hit upon some plan



by which the length, and consequently the expense, of such instruments may be diminished.

Some years ago Lord Brougham, we believe, induced the Legislature to pass two acts—the first, (8 & 9 Vict. c. 119), intitled “An Act to facilitate the Conveyance of Real Property;” and the second, (8 & 9 Vict. c. 124), intitled “An Act to facilitate the granting of certain Leases”—which endeavoured, by means of references in deeds to certain forms comprised in the schedules of these acts, to incorporate them with, and make them in effect part of, such deeds.

As might have been expected, these acts have become a dead letter; and we fully agree with a late eminent conveyancer, who, in commenting upon them in somewhat severe terms, says—“In common sense every instrument should be perfect in itself, and should not have its construction dependent on another instrument. By this contrivance, in few cases more than a skin of parchment would be saved. This trifling additional expense is better than the uncertainty of construction to which a conveyance or lease, referring to the acts, would be subject in unskilful hands\*.”

Undeterred, however, by the fate of these measures, Lord Cranworth has brought another before the House of Lords founded upon the same principle. It would be a bold thing to prophecy that it will pass through Parliament this session, even if its utility be undoubted and its composition unexceptionable. Upon the last subject we will not make any remark; with regard to the former—the utility of the measure—we must express grave doubts.

The object of the bill, like all Lord Cranworth's attempts at legislation, is laudable; the result, we fear, will not answer his expectation. The object of the bill is to make certain powers and provisions which it is now usual to insert in settlements, mortgages, wills, and other instruments, incident to the estates of the persons interested, so as to dispense with the necessity of inserting the same in terms in every such instrument.

The bill proposes to give the mortgagee, independent of contract, power to sell, to insure, and appoint a receiver.

There are other provisions of a similar character, as to investments by trustees, maintenance of infants, the appointment of new trustees, trustees' receipts, &c.

It is proposed, moreover, that *none of the powers conferred by the bill should be exercisable if the instrument declared they should not take effect*, and that they should be subject to any variation or limitation declared by the deed.

With regard to the principle of the bill, we must confess that we have no high opinion. Assuming, what is most unlikely to be the case, that it becomes the law of the land during this session, or, what is possible, but not perhaps very probable, that it may meet with more success in some subsequent year of the reign of Queen Victoria, what will be its result? Undoubtedly one will be, that in all future instruments intended by Lord Cranworth to be affected by it, there will be introduced, by every careful conveyancer, a clause providing that “none

of the powers conferred by — & — Vict. c.—, shall be exercisable by any of the parties hereto.” A careless conveyancer may forget that clause, and the endeavours of our Courts of law and equity to construe the clauses in the instrument, in conjunction with the clauses in the act, will be interesting, and may even in some cases be expensive.

In fine, we think, that even if the provisions of this measure were adopted by conveyancers, the saving thereby effected would be but small; and it would be a great inconvenience to trustees to be compelled to have resort to an act of Parliament, not always accessible, to inform them what are their powers and duties, instead of finding them clearly defined within the four corners of the instrument under which they act.

Again: the forms of powers conferred by instruments require to be often modified in order to meet with the varying exigencies of different circumstances, persons, and things. This may be readily done by a skilful conveyancer in a single instrument; but if it is attempted to graft provisions in an instrument upon others in an act of Parliament, it will tend only to litigation, for if their construction may not altogether puzzle our Courts, trustees may not be inclined to act, except under their direction, order, or advice.

Even if this bill passes—even if it may obtain the praises of the Profession—we may safely predict that we shall have to say of it as of meritorious virtue, “*laudatur et alget.*”

### Reviews.

*A Treatise on the Principles of the Law of Evidence, with Elementary Rules for conducting the Examination and Cross-examination of Witnesses.* By W. M. BART, Esq., A.M., LL.B., of Gray's Inn, Barrister at Law. Third Edition. [Sweet, 1860.]

No branch of legal science receives so much light from philosophical investigations, and a study of human nature in its ever-varying phases, as that which relates to “evidence,” considered with reference to its principles, and also to its practical application to judicial inquiries. The obvious reason is, that it involves in itself that which is at the root of all science, the mode of arriving at the truth, but not abstract truth, nor for speculative purposes; on the contrary, truth affecting the interests of man in their most tangible and practical form, and to be generally extracted from living men, who are more or less biased upon the subject, and who enter the witness-box as an arena where they contest for personal advantage and personal victory. Hence, also, the law of evidence possesses more interest for the general reader than other parts of our system of jurisprudence, and at the same time requires for its treatment the combined qualities of a jurist and philosopher.

These qualities are united in an eminent degree in the learned author of the present work—a work which requires no praise at our hands, for it has already attained the honours of a third edition, and has, in fact, become a standard book, both in our law courts and our libraries.

Since the former edition, the Common-law Procedure Act of 1854 has come into operation, and its provisions affecting the subject of evidence are fully incorporated and considered. (See, for instance, book 4, part 1, c. 1, upon inspection of documents, and exhibiting of interrogatories).

\* Brodie on the Tax on Succession and Burthens on Land, &c., pp. 69, 70, (8vo., 1850).

Important and valuable as are the alterations introduced by this enactment into our system of judicial evidence, yet, as Mr. Best observes in his Preface, "it would be a great mistake to look upon it as effecting a revolution in that branch of our jurisprudence, or as constituting a starting-point in its future history; for, in the first place, that statute does not apply to criminal law, and many of its provisions are restricted to the superior courts of law at Westminster. Again: the statute has introduced no new principles; on the contrary, the Legislature by which it was passed recognised the soundness of those pervading the existing system, and directed their attention solely to its improvement and perfection—thus following the just and enlightened maxim of Lord Bacon—'Antiquity deserveth that reverence, that men should make a stand thereupon, and discover what is the best way; but when the discovery is well taken, then to make progression.'"

The analytical table at the commencement of former editions has been distributed among the respective chapters of the book, and the index has been made very full and precise.

### THE ANCIENT WILLS OF THE PREROGATIVE COURT.

A RECENT discussion in the daily papers on the custody of the wills in the Prerogative Court recalls to my mind a suggestion that I ventured to make privately some years ago, which, if adopted, would at once relieve the registry of much of its burthen, prove of incalculable benefit to biographical research, and, I apprehend, not interfere in any appreciable degree with a single vested interest. It is this—remove all wills proved before the end of the seventeenth century, and the massive volumes containing the copies of them, to the British Museum. Their vast utility in that institution would be unquestionable. Where they now are, they are virtually inaccessible to literary inquirers, and of no use to anybody else.

The fees taken for searches into these ancient wills must be something very trifling, and probably such searches are more plague than profit to the officials. At all events, on the few occasions on which I have had copies of early wills made for literary purposes, the difficulty of transcribing satisfactorily has occasioned me anything rather than a sympathetic reception. The fact is, that the registry is for the use of lawyers, not of literary inquirers; and the sooner the domains of the two are divided the better for both parties.

The only real difficulty in carrying out the details of this plan would arise from the question of legal evidence, in the event of any wills proved before the year 1700 being required for legal purposes. Such occasions must be exceedingly rare, and they could easily be provided for by enacting that the original ancient wills, when in the British Museum, should be consulted only under some special restrictions, and should still retain their legal value. As a general rule, the volumes of copies would suffice for literary purposes.

Take, for example, Shakespeare's will. To suppose that that document can ever be required in a court of law is a transparent absurdity. The entail created by it was barred, and the property dispersed, nearly two centuries ago, and now only a small portion of it could even be identified. Well, that will has never been satisfactorily edited. I had the utmost difficulty even in seeing it, and positively was compelled to have recourse to the expedient of ordering an office copy, in the hope of so being allowed to collate it.

This bugbear of preserving legal evidence intact may be the means of destroying the great poet's will. It is written on three separate sheets, fastened at the top, in

a fashion common to old law papers, so that it can hardly be consulted without handling it in a manner that gradually but surely injures the papers. The rules of the office forbid their separation; but the public would surely be better satisfied if this document—one of the most interesting that could be submitted to an Englishman or American—were deposited in the British Museum, each sheet carefully preserved between plates of glass, (as is the case with the Blackfriars deed, so admirably contrived for exhibition in the Guildhall Library), and so made accessible to all, with perfect safety to the original, instead of its being, in its present depository, inaccessible, and, as it would seem, not in the best state of security.

April 30.

J. O. HALLWELL.

—*Athenæum*, May 5.

### EXAMINATIONS AT THE INCORPORATED LAW SOCIETY.

EASTER TERM, 1860.

At the examination of candidates for admission on the roll of attorneys and solicitors of the Superior Courts, the Examiners recommended the following gentlemen, under the age of twenty-six, as being entitled to honorary distinction:—

George Peter Allen, aged twenty-five, who served his clerkship to Messrs. Lawford, of Drapers'-hall, London; and Messrs. Lawford & Waterhouse, of Drapers'-hall, London.

Willett Ram, aged twenty-one, who served his clerkship to Mr. Simon Batley Jackaman, of Ipswich; and Messrs. Aldridge & Bromley, of Gray's-inn, London.

Henry Handson, aged twenty-one, who served his clerkship to Mr. John Dabbs, of Stamford; and Messrs. Parker, Rooka, & Parkers, of Bedford-row, London.

Joshua Tovell Beard, aged twenty-one, who served his clerkship to Messrs. Newman & Harper, of Hadleigh; and Messrs. Cree & Last, of Gray's-inn, London.

The Council of the Incorporated Law Society have accordingly awarded the following prizes of books:—

To Mr. Allen, the prize of the Honourable Society of Clifford's-inn; to Mr. Ram, one of the prizes of the Incorporated Law Society; to Mr. Handson, one of the prizes of the Incorporated Law Society; and to Mr. Beard, one of the prizes of the Incorporated Law Society.

The Examiners have also certified that the following candidates, whose names (with the exception of that of Mr. Mayhew, whom the Examiners think deserving of especial notice) are placed in alphabetical order, passed examinations which entitle them to commendation:—

Walter Mayhew, aged twenty-one, who served his clerkship to Mr. John Mayhew, of Wigan.

Nicholas Brooking, aged twenty-two, who served his clerkship to Mr. Robert Francis, of Newton Bushel, Devonshire; and Messrs. Church, of Bedford-row, London.

George Alfred Daniel, aged twenty-one, who served his clerkship to Mr. Wilson Clement Crutwell, of Frome; and Messrs. Church, Langdale, & Prior, of Southampton-buildings, London.

Benjamin Dowson, aged twenty-three, who served his clerkship to Messrs. Enfield, of Nottingham; and Messrs. Sharpe, Field, & Jackson, of Bedford-row; and Messrs. Field & Roscoe, of Lincoln's-inn-fields, London.

John Samuel Bedford Glasier, aged twenty-one, who served his clerkship to Mr. John Thomas Tweed, of Lincoln; and Mr. George Tash Tweed, of Lincoln's-inn-fields, and Messrs. Jones, of Millman-place, London.

William Septimus Harding, aged twenty-two, who served his clerkship to Messrs. Ryland & Martineau, of Birmingham; and Messrs. Sharpe, Jackson, & Parker, of Bedford-row, London.

Henry Houseman, aged twenty-three, who served his clerkship to Messrs. Tylee, of Essex-street, London.

John Griffith Jones, aged twenty-one, who served his clerkship to Mr. Richard James, of Llanrwst; and Messrs. Hawkins, Bloxam, & Hawkins, of New Boswell-court, London.

John William Middleton, aged twenty-one, who served his clerkship to Mr. William Middleton, of Leeds.

Henry Leigh Pemberton, aged twenty-four, who served his clerkship to Messrs. Pemberton & Meynell, of Whitehall-place, London.

Henry Russell, aged twenty-one, who served his clerkship to Mr. Alfred Russell, of Dartford; and Messrs. Lawrance, Plews, & Boyer, of Old Jewry-chambers, London.

Dennis Brown Squire, aged twenty-four, who served his clerkship to Mr. William Worship, of Yarmouth; and Mr. Henry Palmer, of Yarmouth; and Messrs. Sudlow, Torr, Janeway, & Tagart, of Bedford-row, London.

William Benford Tanner, aged twenty-three, who served his clerkship to Mr. John Tanner, of Speenhamland, Berkshire; and Messrs. P. & W. B. Nelson, of Essex-street, London.

John Bird Taunton, LL.B., aged twenty-two, who served his clerkship to Messrs. Bolton & Filder, of Lincoln's-inn, London.

James Henry Taylor, aged twenty-two, who served his clerkship to Mr. Thomas Taylor, of Manchester; and Mr. Adam Fox, of Manchester.

The Council have accordingly awarded them certificates of merit.

The Examiners have further announced to the following candidate that his answers to the questions at the examination were highly satisfactory, and would have entitled him either to a prize or a certificate of merit, if he had been under the age of twenty-six:—

Charles Joseph Eldred, aged thirty-five, who served his clerkship to Mr. John Thomas Grover, of Great James-street, London.

The number of candidates examined in this term was 117; of these 110 were passed, and 7 postponed.

By Order of the Council,

ROBERT MAUGHAM, Secretary.

Law Society's Hall, May 10, 1860.

### Court Papers.

#### EQUITY SITTINGS, TRINITY TERM, 1860.

##### Court of Chancery.

###### Before the LORD CHANCELLOR.

###### At Lincoln's Inn.

Tuesday.... May 22	Appeal Motions and Appeals.
Wednesday .... 23	Petitions and Appeals.
Thursday ..... 24	} Appeals.
Friday ..... 25	
Saturday ..... 26	
Monday..... 28	} Appeals.
Tuesday..... 29	
Wednesday .... 30	
Thursday ..... 31	} Appeals.
Friday..... June 1	
Saturday ..... 2	
Monday..... 4	} Appeals.
Tuesday..... 5	
Wednesday .... 6	

Thursday ..... 7	} Appeals.
Friday ..... 8	
Saturday ..... 9	Petitions and Appeals.
Monday..... 11	Appeals.
Tuesday..... 12	Appeal Motions and Appeals.

*Notice.*—Such days as his Lordship shall be engaged in the House of Lords are excepted.

###### Before the LORDS JUSTICES.

###### At Lincoln's Inn.

Tuesday.... May 22	Appeal Motions and Appeals.
Wednesday .... 23	} Appeals.
Thursday ..... 24	
Friday ..... 25	} Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Saturday ..... 26	
Monday..... 28	} Appeals.
Tuesday..... 29	
Wednesday .... 30	Appeal Motions and Appeals.
Thursday ..... 31	Appeals.
Friday..... June 1	} Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Saturday ..... 2	
Monday..... 4	} Appeals.
Tuesday..... 5	
Wednesday .... 6	Appeal Motions and Appeals.
Thursday ..... 7	Appeals.
Friday ..... 8	} Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Saturday ..... 9	
Monday..... 11	} Appeals.
Tuesday..... 12	

*Notice.*—The days (if any) on which the Lords Justices shall be engaged in the full Court, or at the Judicial Committee of the Privy Council, are excepted.

###### Before the MASTER OF THE ROLLS.

###### At Chancery-lane.

Tuesday.... May 22	Motions.
Wednesday .... 23	} General Paper.
Thursday ..... 24	
Friday ..... 25	} Petitions.
Saturday ..... 26	
Monday..... 28	} General Paper.
Tuesday..... 29	
Wednesday .... 30	Motions.
Thursday ..... 31	} General Paper.
Friday..... June 1	
Saturday ..... 2	Petitions.
Monday..... 4	} General Paper.
Tuesday..... 5	
Wednesday .... 6	Motions.
Thursday ..... 7	} General Paper.
Friday ..... 8	
Saturday ..... 9	Petitions.
Monday..... 11	} General Paper.
Tuesday..... 12	

N. B.—Short Causes, Consent Causes, and Petitions, every Saturday. The Unopposed Petitions will be taken first, and such Petitions must be presented and copies left with the Secretary on or before the Thursday preceding the Saturday on which it is intended they should be heard.

###### Before the Vice-Chancellor Sir RICHARD T. KINDERSLEY.

###### At Lincoln's Inn.

Tuesday.... May 22	Motions and General Paper.
Wednesday .... 23	} General Paper.
Thursday ..... 24	
Friday ..... 25	Petitions and General Paper.
Saturday ..... 26	} Short Causes, Adjourned Summonses, and General Paper.
Monday..... 28	
Tuesday..... 29	} General Paper.
Wednesday .... 30	
Thursday ..... 31	Motions and General Paper.

Friday.....	June 1	Petitions and General Paper.
Saturday .....	2	Short Causes, Adjourned Summonses, and General Paper.
Monday.....	4	General Paper.
Tuesday.....	5	General Paper.
Wednesday ....	6	Motions and General Paper.
Thursday .....	7	General Paper.
Friday .....	8	Petitions and General Paper.
Saturday .....	9	Short Causes, Adjourned Summonses, and General Paper.
Monday.....	11	General Paper.
Tuesday.....	12	Motions and General Paper.

*Before the Vice-Chancellor Sir JOHN STUART.*

*At Lincoln's Inn.*

Tuesday....	May 23	Motions and General Paper.
Wednesday ....	23	General Paper.
Thursday .....	24	General Paper.
Friday .....	25	Petitions and General Paper.
Saturday .....	26	Short Causes and General Paper.
Monday.....	28	General Paper.
Tuesday.....	29	General Paper.
Wednesday ....	30	Motions and General Paper.
Thursday .....	31	General Paper.
Friday .....	June 1	Petitions and General Paper.
Saturday .....	2	Short Causes and General Paper.
Monday.....	4	General Paper.
Tuesday.....	5	General Paper.
Wednesday ....	6	Motions and General Paper.
Thursday .....	7	General Paper.
Friday .....	8	Petitions and General Paper.
Saturday .....	9	Short Causes and General Paper.
Monday.....	11	General Paper.
Tuesday.....	12	Motions.

*Before the Vice-Chancellor Sir W. P. WOOD.*

*At Lincoln's Inn.*

Tuesday....	May 23	Motions and General Paper.
Wednesday ....	23	General Paper.
Thursday .....	24	General Paper.
Friday .....	25	General Paper.
Saturday .....	26	Petitions, Short Causes, and General Paper.
Monday.....	28	General Paper.
Tuesday.....	29	General Paper.
Wednesday ....	30	Motions and General Paper.
Thursday .....	31	General Paper.
Friday .....	June 1	Petitions, Short Causes, and General Paper.
Saturday .....	2	General Paper.
Monday.....	4	General Paper.
Tuesday.....	5	Motions and General Paper.
Wednesday ....	6	General Paper.
Thursday .....	7	General Paper.
Friday .....	8	Petitions, Short Causes, and General Paper.
Saturday .....	9	General Paper.
Monday.....	11	General Paper.
Tuesday .....	12	Motions and General Paper.

# COMMON-LAW SITTINGS, IN AND AFTER TRINITY TERM, 1860.

## Court of Queen's Bench.

*In Term.*

MIDDLESEX.	LONDON.
1st sitting, Thursday, May 24	1st sitting, Monday, May 28
2nd sitting, Wednesday .. 30	2nd sitting, Monday.. June 4
3rd sitting, Wednesd., June 6	
For undefended causes only.	

*After Term.*

Wednesday .. June 13 | Monday .. June 25  
The Court will sit at ten o'clock every day.

The causes in the list for each of the above sitting days in term, if not disposed of on those days, will be tried by adjournment on the days following each of such sitting days.

## Court of Common Pleas.

*In Term.*

MIDDLESEX.	LONDON.
Thursday .. May 24	Monday .. May 28
Wednesday .. 30	Monday .. June 4

*After Term.*

Wednesday..... June 13 | Monday .. June 25

The Court will sit during and after term at ten o'clock.

The causes in the list for each of the above sitting days in term, if not disposed of on those days, will be tried by adjournment on the days following each of such sitting days.

## Exchequer of Pleas.

*In Term.*

MIDDLESEX.	LONDON.
1st sitting, Wednesd., May 23	1st sitting, Monday, May 28
2nd sitting, Wednesday .. 30	2nd sitting, Monday.. June 4
3rd sitting, Wednesd., June 6	

*After Term.*

Wednesday..... June 13 | Monday .. June 25

The Court will sit during and after term at ten o'clock.

The Court will sit in Middlesex, at Nisi Prius, in term, by adjournment from day to day, until the causes entered for the respective Middlesex Sittings are disposed of.

## COMMON-LAW CAUSE LISTS, TRINITY TERM, 1860.

## Court of Queen's Bench.

*NEW TRIALS.*

*FOR ARGUMENT.*

<i>Moved Mich. Term, 1858.</i>	Norfolk—Wright v. Wilkin
Cornwall—Lyle v. Richards	Surrey—Jolly v. Wimbledon
(Stands over till decision in Reynolds v. Buckley)	and Dorking Rail- way Co.
<i>Moved Mich. Term, 1859.</i>	" Stansfeld v. Dyer
Herts—Manser v. Christie	" Potter v. Fellows
Surr.—Wren v. Eastern Coun- ties Railway Co.	Durham—Ashworth v. Stan- wix & an.
Pembroke—Goode v. South Wales Railway Co.	" Suddes v. Belleny
<i>Moved Hilary Term, 1860.</i>	York—Ward v. Albert Life Insurance Co.
Midd.—Bickford v. Royal Mail Steam Packet Co.	" Jim Pickard v. Pil- kington & ora.
" Elwes v. Christopher	" Pickard v. Isaac
Lond.—Zwildrenbart & ora. v. Alexander	" Dickinson v. Breffit
" Simpson v. Young	" Mitchell v. Ackroyd
" Margetson v. Atkin	" Baxandall v. Procter
" Coggin v. Levy	Liverp.—Nieman v. Moss
" Lowenthal v. Re- quejo	" Wiley v. Crawford
<i>Tried during Term.</i>	" Same v. Same
Midd.—Joyce v. Joyce	" Powell v. Hall
" Johnson v. Tyrrell	" Deane v. Lofthouse
<i>Moved Easter Term, 1860.</i>	" Blech v. Balleras
Midd.—Fairbank v. Green	North'ton—Fleaher v. Trot- man
Bickford v. Bunning	Derby—Reg. v. Inhabitants of Brailsford
Lond.—Watkins v. Shepherd	Bristol—Symes v. Hutley
" Matthews v. Gibbs	Oxford—Cole v. Denny
" Thompson v. North- eastern Railway Co.	" Shrubbs v. Eyre
" Barry v. Shipley	Glo'ster—Evison v. Oxford, &c. Railway Co.
" Kopetzky v. Rudhall	" Dorset v. Muff
Bedford—Coleman v. Howard	Carmarth.—Thomas v. Ro- gers
	" Davies v. Bowen
	Glamorg.—Evans v. Thomas
	Chester—Adshead v. Need- ham
	" Hall v. Crawford

*Tried during Term.*  
 Midd.—Noble v. Le Gros  
 „ Cohen and Wife v. De  
 Mallepreae

Midd.—Payne v. Revans  
 „ Romillio v. Halahan  
 „ Lloyd v. Shaw  
 Lond.—Cook v. Wright.

Kent..... Reg. v. Lords of Romney Marsh.  
 Tewkesbury .... Severn Navigation Commissioners.  
 Middlesex ..... Inhabitants of St. Marylebone.  
 Worcestershire.. Ward v. Thomings.

## SPECIAL PAPER.

Those marked thus \* are Special Cases, and those † Demurrers.

## FOR JUDGMENT.

\*Hodgson & ors. v. Hooper

## FOR ARGUMENT.

\*Harrison v. London, Brighton,  
 & South-coast Railway  
 Co.  
 †Murieta & ors. v. Robinson  
 (Stands over for counsel to  
 have leave to state a Sp. C.)  
 \*Bennett v. Great Western  
 Railway Co.  
 †Company of Proprietors of  
 Warwick and Birmingham  
 Canal Navigation v. Oxford,  
 Worcester, & Wolverhampton  
 Railway Co.  
 \*Smith v. Mundy  
 †Christmas v. London and  
 South-western Railway Co.

†Sisheh v. Watson (To stand  
 over until after defendant  
 shall have pleaded to the  
 amended declaration)  
 †Evans v. Atwood & an.  
 †Shrubh v. Eyre  
 †Castrique v. Behrens & ors.  
 †Schlumberger v. Lister  
 Giles v. Scott (Appeal from  
 County Court)  
 †Bosanquet v. Heath  
 †Heath v. Bosanquet  
 †Jackson v. Saxon  
 \*Saunders v. Eppe  
 \*Sinclair v. Maritime Passen-  
 gers Assurance Co.  
 \*Hungerford Market Co. v.  
 City Steam-boat Co.  
 †Hewson v. Xenos  
 \*Molesworth v. Quayle.

## ENLARGED RULES.

## First Day.

Luce & ors. v. Guardians of  
 the City of London Union  
 Baker & ors. v. Tynte  
 Waterlow & ors. v. Bray  
 In re Hacking v. Lee  
 Gerard v. Ross—Innes v. Mor-  
 timer & an.—In re Innes

In re White  
 Reg. v. Hutton  
 Reg. v. Herford  
 Reg. v. Mayor, &c. Devon-  
 port  
 May 29.  
 Reg. v. Lords of the Committee  
 of the Privy Council.

## CROWN PAPER, TRINITY TERM, 1880.

Metropolitan Po- { Overseers of St. Botolph Without, Ald-  
 lice District.... { gate, v. Board of Works of the White-  
 chapel District.  
 Cambridgeshire.. Sparrow v. Churchwardens of Ippington.  
 Kent ..... Reg. v. Justices of the County of Kent.  
 Essex..... Patten v. Rhymer.  
 Monmouthshire.. Leary v. Lloyd.  
 Devonshire .... Chilcote v. Youlden.  
 Warwickshire .. Butler v. Lord.  
 Surrey ..... Reg. v. Inhabitants of Putney.  
 London ..... Sadlers Co.  
 Breconshire .... Thomas v. Williams.  
 Middlesex ..... Reg. v. Churchwardens of St. Giles-in-the-  
 Fields.  
 Hants ..... Inhabitants of Fletton.  
 Great Yarmouth. Harrod.  
 Northumberland Embleton v. Brown.  
 Derbyshire .... Woolley v. Corblishley.  
 Same..... Whitnall v. Tomkinson.  
 Staffordshire... Hayes v. Stevenson.  
 Metropolitan Po- { Derick v. Phelps.  
 lice District.... {  
 Birmingham.... Till v. Walker.  
 Brighton ..... Hill v. Thornicroft.  
 Essex..... Clements v. Smith.  
 Yorkshire ..... Thewlis v. Kay.  
 Warwickshire .. Reg. v. Bedford.  
 Staffordshire ... North Staffordshire Railway Co.  
 Cambridgeshire .. Smith.  
 Liverpool ..... Steele v. Hamilton.  
 Yorkshire ..... Walker v. Welburn.  
 Newcastle ..... Reg. v. Inhabitants of Elswick.  
 Yorkshire ..... Wrighton.  
 Metropolitan Po- { Loomes v. Bailey.  
 lice District.... {

## Court of Common Pleas.

## NEW TRIALS.

*Hilary Term, 1880.*  
 Lond.—Morgan v. Taylor  
 „ Lockwood v. Levick  
 Liverpool.—Ward v. Napier.  
*Easter Term, 1880.*  
 Midd.—Pockett v. Wood  
 „ Cocher v. Fenn  
 „ Moon v. Towers  
 „ Biggs v. Gordon  
 „ Burtwell v. Pryce.  
 „ Kernan v. Waterer  
 Lond.—Laming v. Gourley  
 „ Gye v. Hughes  
 Lond.—Kreeft v. Croker  
 „ Cetton v. Wood  
 „ Richardson v. Dunn  
 „ Edens v. Heath  
 Surrey—Whitmore v. Lloyd  
 „ Russell v. Bandeira  
 „ Fachiri v. Milnes  
 Devon—Harris v. Williams  
 Hants—Dawes v. Hawkins  
 Gloucester—Marfell v. South  
 Wales Railw. Co.  
 Liverpool—Foxwell v. Thomas  
 Cumberland—Standish v. Carn-  
 thers.

## DEMURRER PAPER.

## SPECIAL ARGUMENTS.

*Monday, May 28.*  
 Pedgrift v. Chevallier (Ap.)  
 Hildreth v. Adamson (Ap.)  
 Wood v. Epsom and Leather-  
 head Railway Co. (Case  
 N. P.)  
 Gorsuch v. Cree (D.)  
 Mersey Docks and Harbour  
 Board v. Jones (Case by  
 order)  
 Yates v. Nash (D.)  
 Broad v. Glennie (Ap.)  
 Robinson v. Vernon (Ap.)  
 Thornton v. Betts (Ap.)  
 Guardians of the City of Lon-  
 don Union v. Acocks (Ap.)  
 Llandaff v. Lyndon (Ap.)  
 Swindell v. Birmingham Na-  
 vigation Co. (D.)  
 Furnivall v. Grove (Case by  
 order)  
 Townsend v. Crowdy (Case by  
 order)  
 Bonsall v. Bonsall (D.)  
 Groux's Improved Soap Co  
 v. Cooper (D.)  
 Morton v. Brammer (Ap.)  
 Richardson v. Nash (D.)  
 Cobham v. Halcombe (D.)  
 Thornhill v. Neats (D.)  
 Easen v. Fletcher (D.)  
 Jones v. Tapling (Sp. C.)  
 Backhouse v. Churchwardens  
 of Bishopwearmouth (Ap.)  
 North v. Taylor (Case N. P.)  
 Harris v. Jenne (Ap.)  
*Wednesday, May 30.*  
 Shadwell v. Shadwell (D.)  
 Smith v. Emperor Assurance  
 Society (D.)  
 Todd v. Flight (D.)  
 Lewis v. Mayor of Rochester  
 (Case N. P.)  
 Freeman v. Read (Ap.)  
 Smith v. Vertue (D.)

## ENLARGED RULES.

*First Day.*  
 Colne Valley and Halstead  
 Railway Co. v. Eastern  
 Counties Railway Co.  
 Ransome v. Same  
 Fletcher v. McDowell  
 Amann v. Damm  
 Daft v. Farrar  
 Cattlin v. Maitland  
 Same v. Same  
 Nutt v. Midland Railway Co.  
 (Until application to Chan-  
 cery is disposed of)  
*Fourth Day.*  
 Slipper v. Back  
 Erwin v. Same  
 Walter v. Whittaker (Until  
 proceedings in Chancery  
 are disposed of).

## CUR. ADV. VULT.

Oakley v. Ooddeem | Oxley v. Holden  
 Wale v. Westminster Hotel Co. | Suse v. Pompe.

## Court of Exchequer.

## SITTINGS—TRINITY TERM, 1880.

*Days in Term.*  
 Thursday.... May 22  
 Wednesday..... 23  
 Thursday..... 24  
 Friday..... 25  
 Saturday..... 26  
*Banc.*  
 Motions and Peremptory Paper.  
 Errors, Peremptory Paper, and  
 Motions.

<i>Days in Term.</i>	<i>Banc.</i>
Monday..... 28	Special Paper.
Tuesday..... 29	.....
Wednesday..... 30	Special Paper.
Thursday..... 31	Circuits chosen.
Friday..... June 1	.....
Saturday..... 2	Criminal Appeals.
Monday..... 4	.....
Tuesday..... 5	.....
Wednesday..... 6	Special Paper.
Thursday..... 7	.....
Friday..... 8	.....
Saturday..... 9	.....
Monday..... 11	.....
Tuesday..... 12	.....

<i>Days in Term.</i>	<i>Nisi Prius.</i>
Thursday .... May 24	Middlesex, first Sitting.
Monday ..... 28	London, first Sitting.
Wednesday ..... 30	Middlesex, second Sitting.
Monday ..... June 4	London, second Sitting.
Wednesday ..... 6	Middlesex, third Sitting.

## NEW TRIALS.

## FOR JUDGMENT.

Lond.—Swinfen v. Chelmsford	Taunton—Browning v. Great Mining Company of Devon
Croydon—Nixon v. Freeman	Staff.—Johnson v. Simcock
„ Same v. Same	„ Whitmore v. Smith
„ Rodrigues v. Mechl	„ Webberley v. Clement
„ Jones v. Davies	„ Wootton v. Snape
Midd.—Croxon v. Moss	Heref.—Lewis v. Great Western Railway Co.

## FOR ARGUMENT.

Lond.—Bovill v. Pimm	Chest.—Grimson v. Walmaley
„ Wyborn v. The Great Northern Railway Co.	„ Mason v. Birkenhead

*Moved Mich. Term, 1860.*

Bodmin—Chappell v. Bray	„ Gough v. Hardman
Croydon—Alexander v. Wor-	„ Legh v. Lillie
man	„ Parker v. Morris
	„ Maccay v. Ford

*Moved Hilary Term, 1860.*

Lond.—Lozano v. Durant	Camb.—Crick v. Warren
	Norwich—Cory v. Bond
	Kingston—Naylor v. Yearley
	Chester—Plant v. Taylor
	„ Appleton v. Morrey
	„ Plant v. Taylor

Midd.—Beatson v. Skene	Newcastle—Reed v. Lamb
Lond.—Millership v. Brookes	Liverp.—Lythgoe v. Vernon

*Moved Easter Term, 1860.*

Midd.—Rigby v. The Mayor, &c. of Bristol.	„ Fraser v. Levy
	„ Robson v. Lees
	„ Seymour v. Greenwood

Lond.—Searson v. Robinson	<i>Moved after the 4th day of Easter Term, 1860.</i>
„ Reed v. Lemon	Midd.—Marack v. Webber
Warwick—Pearl v. Leeson	„ Wheeler v. Stevenson
Exeter—Beal v. South Devon Railway Co.	„ Lambert v. Farrell.
„ Frost v. Bowers	

## SPECIAL PAPER.

## FOR JUDGMENT.

Dick v. Tolhausen (D.)	FOR ARGUMENT.
The Hull Flax and Cotton Mill Company v. Wellesby (Sp. C.)	Brewer v. Dimmack (D.)
Same v. Same (D.)	London and North-western Railway Co. v. Great Western Railway Co. (D.)
Yates v. Mayor of Blackburn (D.)	Anglo-Californian Gold Mining Co. v. Lewis (D.)
	Presart v. Lawrence (D.)

## PEREMPTORY PAPER.

*To be called on the first Day of Term after the Motions, and to be proceeded with the next Day, if necessary, before the Motions.*

Jessel v. Chaplin	Ex parte Harris
Maltby v. Murrell	Anglo-French Porcelain Co. v. Harris.
Watson v. Bennett	

## BILLS IN PROGRESS.

## LIABILITY OF INNKEEPERS BILL.

(COLONEL SMYTH, MR. ROBBUCK, AND MR. EDWARD EGERTON).

*A Bill intituled "An Act to amend the Law respecting the Liability of Innkeepers, and to prevent certain Frauds upon them."*

## Preamble.

Sect. 1. No innkeeper shall hereafter be holden to be responsible for goods or property of his guests where the value thereof exceeds 40*l.*, except for such as may be deposited with such innkeeper expressly for safe custody; and where such goods or property shall be so deposited for safe custody, it shall be lawful for such innkeeper to require that each article thereof shall be exhibited to him, and its value declared to him.

2. Where goods or property are so deposited with and exhibited to an innkeeper, and the same are afterwards stolen or lost, such innkeeper shall not be concluded by the price or value set thereon by the guest as is aforesaid, but it shall be incumbent on such guest to prove the actual value of the same.

3. And whereas frauds are frequently practised upon innkeepers by persons fraudulently seeking meat, drink, or lodging in their inn without having the means of paying for the same: be it enacted, that if any person shall obtain from an innkeeper any meat, drink, or lodging without having the means of paying for the same, it shall be lawful for any justice of the peace, upon complaint thereof made to him, to cause such person to be brought before him, or before some other justice of the same jurisdiction, by summons, or, if necessary, by warrant, and after hearing evidence of the matter of such complaint, and of what may be alleged by way of defence, it shall be lawful for such justice of the peace to order such person forthwith to pay to such innkeeper a sum equal to the amount of the debt which shall have been proved to be owing to him, together with the costs of such proceeding, to be levied upon such person's goods, (if he have any); and if he have none, or if the goods he may have be not sufficient to pay such debt and costs, it shall be lawful for such justice of the peace to commit such person to the gaol or house of correction for any time not exceeding two calendar months, or until such debt or costs shall be sooner paid.

4. The words and expressions hereinafter contained which, in their ordinary signification, have a more confined or a different meaning, shall in this act, except where the nature of the provision or the context of the act shall exclude such construction, be interpreted as follows; that is to say, the word "innkeeper" shall mean the keeper of any hotel, inn, tavern, public-house, or other place of refreshment; and the word "property" shall mean money, securities for money, title deeds, precious stones, jewellery, wearing apparel, goods, wares, merchandise, chattels and effects, animals, and things of every description, and the receptacles for the same.

## ADULTERATION OF FOOD OR DRINK.

*Abstract of a Bill intituled "An Act for preventing the Adulteration of Articles of Food or Drink."*

Sect. 1. Every person who shall sell any article of food or drink with which, to the knowledge of such person, any ingredient or material injurious to the health of persons eating or drinking such article has been mixed, and every person who shall sell expressly warranted as pure or unadulterated any article of food or drink which is adulterated or not pure, shall for every such offence, on a summary conviction of the same before two justices of the peace in England and Scotland, or before justices at petty sessions or a divisional justice in Ireland, forfeit and pay a penalty not exceeding 5*l.* nor less than 5*s.*, together with such costs attending such conviction as to the said justices shall seem reasonable; and if any person so convicted shall afterwards commit the like offence, it shall be lawful for such justices to cause such offender's name, place of abode, and offence to be published, at the expense of such offender, in such newspaper or in such other manner as to such justices shall seem desirable.

2. On the hearing by the justices of any complaint under this act, in any district, county, or borough wherein any analyst shall have been appointed, the purchaser shall prove to the satisfaction of such justices that the seller of the article of food or drink alleged to be adulterated, or his servants, had such notice of the intention of the purchaser to have such article analysed, and also such opportunity of accompanying the purchaser to an analyst appointed by this act, as the justices shall think reasonable, in order to secure such article from being tampered with by the purchaser.

3. In England, the vestries and district boards acting in execution of the Act for the better Local Management of the Metropolis, the court of quarter sessions of every county, and the town council of every borough having a separate court of quarter sessions, and the commissioners of supply at their ordinary meetings for counties in Scotland, and town councils within their several jurisdictions, may, from time to time, for their respective districts, counties, or boroughs, appoint and remove one or more persons possessing competent medical, chemical, and microscopical knowledge, as analysts of all articles of food and drink purchased within the said metropolitan districts, counties, or boroughs, and may provide a convenient office, and all necessary accommodation and materials, for the execution of the duties of such analysts, and may pay to such analysts such salary or allowances as they may think fit.

4. Any purchaser of any article of food or drink in any district, county, or borough in England, where there is any analyst appointed under this act, shall be entitled, on payment of a sum not less than 2s. 6d. nor more than 10s. 6d., to have any such article analysed by any analyst who may be appointed for such district, county, or borough, and to receive from such analyst a certificate of the result of his analysis, specifying whether in his opinion such article is adulterated, and also whether it is so adulterated as to be injurious to the health of persons eating or drinking the same; and such certificate, duly signed by such analyst, shall, in the absence of any evidence to the contrary, be sufficient evidence before the justices, or in any court of justice, of the matters therein certified, and the sum so directed to be paid for such certificate shall be deemed part of the costs.

5. The justices before whom any complaint may be made under this act may, in their discretion, cause any article of food or drink to be examined and analysed by such skilled person as they may appoint for that purpose, who may be required to give evidence of the same at the hearing of the case; and the expense thereof, and of such examination and analysis, if not paid by the complainant or party complained against, shall be deemed part of the expenses of executing this act; but nevertheless such expense may be ordered by such justices to be paid by the party so complaining or complained against, as they shall think proper.

6. Appeal to quarter sessions.

7. Where conviction within six days of quarter sessions, time allowed for appeal.

8. The provisions in the Nuisances Removal Act for England, 1855, as to procedure, and the provisions of the act of the eleventh and twelfth years of the reign of her present Majesty, intitled "An Act to facilitate the Performance of the Duties of Justices of the Peace and of Session, within England and Wales, with respect to Summary Convictions and Orders, and ordinary Rules regulating the Procedure of Justices of the Peace in Scotland," so far as the same are respectively applicable, shall extend and apply to cases arising under this act in England or Scotland; and all monies arising from penalties under this act, in any district or borough where there are analysts appointed under this act, shall, when paid or recovered, be paid to the vestry, district board, county treasurer, or town council for such district or borough respectively, to be applied for the general purposes of such vestry, district board, county, or borough respectively, or to the collector of rogue money for each county in Scotland.

9. Proceedings as to complaints, &c. in Ireland to be subject to the provisions of the Petty Sessions (Ireland) Act, 1851, and Petty Sessions Clerk (Ireland) Act, 1858.

10. Appeal to quarter sessions.

11. Costs of executing act.

12. In the construction of this act, the words "articles of food or drink" shall (if not inconsistent with the context or subject-matter) include not only all alimentary substances, whether solids or liquids, but also all eatables or drinkables

whatsoever, not being medical drugs or articles usually taken or sold as medicines; but this act shall not be construed so as to affect the ordinary reduction of the strength of foreign, British, or colonial spirits, by persons licensed and paying duties under the excise.

## SELLING AND HAWKING GOODS ON SUNDAY BILL.

(AS AMENDED ON RE-COMMITMENT).

*Abstract of a Bill intituled "An Act to amend the Laws relating to the selling and hawking of Goods on Sunday within the Metropolitan Police District and City of London and Liberties thereof."*

Sect. 1. No person shall on Sunday, within the metropolitan police district, or within the city of London or liberties thereof, sell, or offer or expose for sale, or cause to be sold, offered, or exposed for sale, in any shop or other building, any wares, merchandise, or things whatsoever, (except as hereinafter excepted); and any person who shall commit any such offence, and shall be convicted thereof before a police magistrate or any two justices of the peace, shall forfeit and pay any sum not exceeding 20s. nor less than 5s., as shall be adjudged by such police magistrate or justices: provided always, that no person who has not before been convicted of any offence against this act shall be liable to more than one penalty for any offence against this act committed on one and the same day.

2. No dealer in meat, fish, poultry, or vegetables within the metropolitan police district, or within the city of London or liberties thereof, shall on Sunday, after the hour of ten o'clock in the morning, deliver or cause to be delivered, in the way of his trade, any meat, fish, or poultry, (except as hereinafter excepted); and every person who shall be convicted of any such offence before a justice of the peace shall be liable to the same penalties as are hereinbefore enacted against the selling, offering, or exposing for sale of goods on Sunday.

3. If any person, having been convicted for the first time of any offence against the provisions of this act hereinbefore mentioned, shall afterwards be guilty of any such offence, and shall be convicted thereof before a police magistrate or any two justices of the peace, every such person shall, for every such subsequent offence, be liable to any penalty, not exceeding 40s. nor less than 10s., for every separate act of selling, offering, or exposing for sale or delivering, which may take place or be made on one and the same day, as shall be adjudged by such police magistrate or justices.

4. No person within the metropolitan police district, or within the city of London or liberties thereof, shall on Sunday hawk, cry, sell, offer, or expose for sale any wares, merchandise, or things whatsoever, on any open ground or in any public street, lane, thoroughfare, or other open place apart from the residence of the person so offending, (except as hereinafter excepted); and any person who shall commit any such last-mentioned offence, and shall for the first time be convicted thereof before a justice of the peace, shall forfeit and pay a sum not exceeding 5s. for any offence or offences against this act committed on one and the same day.

5. If any person, having been convicted for the first time of any offence against the provisions of this act in the last preceding section mentioned, shall afterwards be guilty of any such offence, and shall be convicted thereof before a police magistrate or any two justices of the peace, every such person shall for every such subsequent offence be liable to a penalty not exceeding 5s. for every separate act of hawking, crying, selling, offering, or exposing for sale which may take place on one and the same day, as shall be adjudged by such police magistrate or justices.

6. The term for which a person convicted of any first offence against this act may be committed to the house of correction or common gaol shall not exceed one calendar month.

7. The provisions of this act shall not apply—

To the selling, offering, or exposing for sale of any medicine, drug, or other article for medicinal purposes;  
Nor to the selling, offering, or exposing for sale, without public cry, of any meat, fish, poultry, or vegetables before the hour of ten o'clock in the morning;  
Nor to the selling, offering, or exposing for sale, or hawking or crying, of any milk or cream before the hour of



ten o'clock in the morning, or after the hour of one o'clock in the afternoon;

Nor to the exercise of the ordinary and lawful business of a pastrycook, nor to the selling, offering, or exposing for sale, without public cry, of any fruit or pastry, or of any beverage which may by law be ordinarily sold without license, before the hour of ten o'clock in the morning, and after the hour of one o'clock in the afternoon;

Nor to the selling, offering, or exposing for sale, without public cry, of any periodical publication, before the hour of ten o'clock in the morning, and after the hour of one o'clock in the afternoon;

Nor to the exercise of the ordinary and lawful business of a cook-shop, coffee-house, or eating-house keeper;

Nor to the exercise of the ordinary and lawful business of a baker, licensed victualler, or keeper of any inn, tavern, hotel, public-house, or other house licensed for the sale of beer or of exciseable liquors.

8. No servant who shall act in violation of this act by or under the direction of his employer (the proof whereof shall be upon such servant) shall be liable to any penalty under this act; but in every such case the person by or under whose direction such servant shall have so acted shall be deemed to have himself offended against this act, and be punishable accordingly.

9. Proof of previous convictions.

10. Appropriation of penalties.

11. Limitation of proceedings, seven days.

12. Commencement of act.

**THOMAS THORP**, Clapham-road, Surrey, linendraper, May 28 and June 25 at half-past 11, London: Off. Ass. Pennell; Sols. Davies & Co., 17, Warwick-street, Regent-street, London.—Pet. f. May 20.

**DAVID WIDDOWSON**, Nottingham, lace manufacturer, May 31 and June 21 at 11, Nottingham: Off. Ass. Harris; Sols. Campbell & Co., Nottingham.—Pet. d. May 11.

**JOHN WILLIAMS**, Pontypool, Monmouthshire, surgeon, May 25 and June 26 at 11, Bristol: Off. Ass. Miller; Sols. Edwards, Pontypool; Bevan & Co., Bristol.—Pet. f. May 11.

**JOHN BOX** and **HENRY JOHN LEWIS**, Gloucester, corn merchants, May 31 and June 26 at 11, Bristol: Off. Ass. Acraman; Sols. Henderson, Bristol; Bretherton, Gloucester.—Pet. f. May 9.

**THOMAS SUTER**, Weymouth and Melcombe Regis, Dorsetshire, confectioner, May 30 and June 20 at 1, Exeter: Off. Ass. Hirtzel; Sols. Howard, Weymouth; Terrell, Exeter.—Pet. f. May 14.

**STEPHEN MOSS** and **WILLIAM ASHWORTH**, Woodmill, Stansfield, Halifax, Yorkshire, fustian cutters, (carrying on business under the style or firm of Moss & Ashworth), May 25 and June 22 at 11, Leeds: Off. Ass. Young; Sols. Ferns & Rooks, Leeds.—Pet. d. and f. May 9.

**EPAPHRAS CLAYTON**, Openshaw, near Manchester, grocer, May 25 and June 20 at 12, Manchester: Off. Ass. Fraser; Sol. Sutton, Manchester.—Pet. f. May 10.

**ALFRED HASLAM**, Manchester, coach proprietor, June 6 and 22 at 12, Manchester: Off. Ass. Pott; Sols. Atkinsons & Herford, Manchester.—Pet. f. May 9.

**CHARLES JONES**, Deansgate, Manchester, and Altrincham, Cheshire, shoemaker, June 5 and 27 at 12, Manchester: Off. Ass. Hernaman; Sols. Marsland & Edge, Bolton-le-Moors.—Pet. f. May 8.

**GEORGE PRICE SIMCOX**, Hendham Vale, Collyhurst, Manchester, carpet manufacturer, May 25 and June 15 at 12, Manchester: Off. Ass. Hernaman; Sols. Chew & Son, Manchester.—Pet. f. May 2.

#### MEETINGS.

**Thomas Lee Story**, Thrapston, Northamptonshire, tailor, May 25 at 1, London, aud. ac.—**Alfred Charles Ayres**, Ramsgate, Kent, surgeon, May 25 at half-past 1, London, aud. ac.—**Ebed Melech Thomas**, Liverpool, ship smith, May 25 at 11, Liverpool, aud. ac.—**Edward Evans**, Wednesbury, Staffordshire, draper, June 4 at 11, Birmingham, aud. ac.—**Nathaniel Bissell**, Kingwinford, Staffordshire, innkeeper, June 4 at 11, Birmingham, aud. ac.—**Henry Col-**

**lingbourne**, Foleshill, near Coventry, Warwickshire, ribbon manufacturer, June 4 at 11, Birmingham, aud. ac.—**William Rawson Brame** and **John Brame** the younger, Birmingham, printers, June 6 at 11, Birmingham, aud. ac.—**Isaac Hawker Bedford** and **Henry Lighton**, Birmingham, cut-glass manufacturers, June 6 at 11, Birmingham, aud. ac.—**George James**, Hanley, Staffordshire, butcher, June 11 at 11, Birmingham, aud. ac.—**George White**, Birmingham, provision dealer, June 11 at 11, Birmingham, aud. ac.—**William Lindon**, Newcastle-under-Lyme, Staffordshire, brush manufacturer, June 13 at 11, Birmingham, aud. ac.—**Thomas Highway** and **Charles Highway**, Walsall, Staffordshire, ironmasters, June 18 at 11, Birmingham, aud. ac.—**Henry Watts**, Northampton, draper, June 6 at 12, London, div.—**Thomas Tidswell**, Nottingham, lace maker, June 7 at 11, Nottingham, aud. ac. and div.—**John Burford**, **James Thompson**, and **Joseph Hadley**, Bilston, Staffordshire, ironmasters, June 13 at 11, Birmingham, div. sep. ests. of **John Burford** and **James Thompson**.—**David Lees**, Wednesbury, Staffordshire, coach manufacturer, June 18 at 11, Birmingham, fin. div.—**James Scott**, Tweedmouth, Berwick-upon-Tweed, millwright, June 7 at half-past 12, Newcastle-upon-Tyne, div.—**Thomas Lilley**, North Shields, Northumberland, merchant tailor, June 7 at 12, Newcastle-upon-Tyne, div.—**Philip Hawks**, Kinson-lodge, near Poole, Dorsetshire, brick-maker, June 15 at 1, Exeter, div.—**Henry Stephens**, Exeter, innkeeper, June 15 at 1, Exeter, div.—**Grace Keenor** and **Sophia Baillie**, Exeter, milliners, June 15 at 1, Exeter, div.—**John Lancey**, Barnstaple, Devonshire, linendraper, June 15 at 1, Exeter, div.—**W. Craven**, Birkenhead and Poulton-cum-Spital, Cheshire, roadmaker, June 7 at 11, Liverpool, div.—**John Webster**, Wavertree, near Liverpool, joiner, June 7 at 11, Liverpool, div.—**Samuel Hawkins Napier** and **John Hewitson**, Liverpool, ship chandlers, June 7 at 11, Liverpool, div.

#### CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

**Wm. Ellis**, Pennyfields, Poplar, Middlesex, ship joiner, June 6 at 12, London.—**Richard Lockington Cole**, Lime-street, City, merchant, June 6 at 11, London.—**Miles Beale**, Gray-street, Poplar, Middlesex, ironfounder, June 8 at 11, London.—**Henry Smart**, Gloucester, printer, June 11 at 11, Bristol.—**James Scott**, Tweedmouth, Berwick-upon-Tweed, millwright, June 7 at half-past 12, Newcastle-upon-Tyne.—**William Bogle**, Birmingham, hop merchant, June 8 at 11, Birmingham.—**Henry James Wilson**, Whitechurch, Shropshire, surgeon, June 11 at 11, Birmingham.—**Thomas Mills**, Leicester, elastic web manufacturer, June 12 at half-past 11, Nottingham.—**Wm. West**, Kingston-upon-Hull, draper, June 6 at 12, Kingston-upon-Hull.

*To be granted, unless an Appeal be duly entered.*

**Christopher Storry**, Aldershot, Hampshire, and Farnham, Surrey, fishmonger.—**G. Hayman**, Portsmouth, Southampton, licensed victualler.—**Charles Jas. Sayer**, Francis-place, Holloway, Middlesex, boarding-house keeper.

#### PARTNERSHIP DISSOLVED.

**Thomas Wylie Webster** and **David Wardlaw**, Westminster, Scotch solicitors and parliamentary law agents.

#### SCOTCH SEQUESTRATIONS.

**Peter Hay**, Paisley, dyer.—**Edward Alexander Falconer**, Edinburgh, grocer.—**John Fleming**, deceased, Campbeltown, commander in the royal navy.—**Geo. Henry Chas. Francis Malcolm Drummond**, Edinburgh.—**William Abbott**, Tobermory, Island of Mull, Argyleshire, corn dealer.—**Robert Macdonald**, Hawick, grocer.

**COMMISSIONER TO ADMINISTER OATHS IN CHANCERY.**—The Lord Chancellor has appointed **Thomas Shepherd Noble**, Gent., of York, to be a Commissioner to administer oaths in the High Court of Chancery in England.

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T

## GAZETTES.—FRIDAY, May 18.

## BANKRUPTS.

ROBERT WATLING SEXTON, Norwich, builder, May 31 at half-past 12, and June 28 at 12, London: Off. Ass. Johnson; Sols. Bailey, Norwich; Hudson, 23, Bucklersbury, London.—Pet. f. May 7.

THOMAS COATES, Bridge-road, Lambeth, Surrey, linen-draper, May 31 at 11, and June 29 at 1, London: Off. Ass. Whitmore; Sols. Sole & Co., 68, Aldermanbury.—Pet. f. May 15.

HENRY HARVEY, Hatton-garden, Holborn, Middlesex, lamp manufacturer, (trading under the firm of Henry Harvey & Co.), June 1 and 29 at half-past 1, London: Off. Ass. Whitmore; Sol. Roberts, 15, Bucklersbury.—Pet. f. May 14.

THOMAS VOKE, Portsea, Southampton, confectioner, June 1 at 12, and June 29 at 11, London: Off. Ass. Cannan; Sols. Minchin, Portsea; Bevan & Whiting, 6, Old Jewry, London.—Pet. f. May 18.

MARK WARREN, Shoreditch, Middlesex, haberdasher, May 28 at half-past 1, and July 2 at 11, London: Off. Ass. Pennell; Sols. Lawrance & Co., 14, Old Jewry-chambers, Old Jewry.—Pet. f. May 16.

GEORGE SMITH, Witlesey, Isle of Ely, Cambridgeshire, ironmonger, May 28 and July 2 at 2, London: Off. Ass. Pennell; Sols. Gaches, Peterborough; Sole & Co., 68, Aldermanbury, London.—Pet. f. May 2.

CHARLES BRAY, Alfred-terrace, Queen's-road, Bayswater, Middlesex, ironmonger, May 29 at half-past 2, and June 26 at 1, London: Off. Ass. Lee; Sols. Mackeson & Goldring, 59, Lincoln's-inn-fields.—Pet. f. May 16.

GEORGE JERVIS, THOMAS LEESE, and WILLIAM HENRY BRADBURY, Longton, Staffordshire, china manufacturers, June 1 and 22 at 11, Birmingham: Off. Ass. Whitmore; Sols. Young, Longton; Hodgson & Allen, Birmingham.—Pet. d. May 15.

EDWARD SMITH, Birmingham, printer, May 30 and June 25 at 11, Birmingham: Off. Ass. Kinnear; Sols. E. & H. Wright, Birmingham.—Pet. d. May 7.

WILLIAM GEORGE MARTIN, Chestpaw, Monmouthshire, upholster, May 31 and June 19 at 11, Bristol: Off. Ass. Acraman; Sols. Bevan & Co., Bristol; Ashurst & Co., 6, Old Jewry, London.—Pet. f. May 9.

JOHN ECCLES, East Butterwick, Lincolnshire, stonemason, June 6 and July 4 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sols. Howlett & Sons, Kirton-in-Lindsey.—Pet. d. May 9.

WILLIAM WRIGHT, Fulshaw, Cheshire, cattle dealer, June 5 and 28 at 12, Manchester: Off. Ass. Fraser; Sols. Green & Payne, Manchester.—Pet. f. May 8.

## MEETINGS.

*Wm. Sharp* the younger, New Broad-street, City, underwriter, May 30 at 1, London, ch. ass.—*Thomas Allen*, Newport, Monmouthshire, corncractor, May 25, Bristol, last ex.—*James Elgar*, Fletton, Huntingdonshire, wholesale grocer, May 31 at 2, London, aud. ac.—*C. W. Broughton*, Southampton-street, Covent-garden, Middlesex, tailor, May 31 at 11, London, aud. ac.; June 8 at half-past 11, div.—*Isaac Bensaud*, South-street, Finsbury, Middlesex, merchant, May 31 at 11, London, aud. ac.; June 8 at 11, div.—*W. Craven*, Birkenhead and Poulton-cum-Spital, Cheshire, road maker, May 31 at 11, Liverpool, aud. ac.—*S. H. Napier* and *John Hewitson*, Liverpool, ship chandlers, May 31 at 11, Liverpool, aud. ac.—*John Webster*, Wavertree, near Liverpool, joiner, May 31 at 11, Liverpool, aud. ac.—*J. L. Moreland*, Lydford and Keinton, Somersetshire, grocer, June 7 at 11, Bristol, aud. ac.; June 21 at 11, div.—*Richard A. Hollis*, Judd-street, New-road; Chapel-street, Somers-town; and Sidmouth-street, Gray's-inn-road, Middlesex, grocer, June 8 at 11, London, div.—*Wm. Burrows*, Park-street, Islington, Middlesex, surgeon, June 8 at half-past 11, London, div.—*Alexander Jacobson*, Tysoe-street, Clerkenwell, Middlesex, dealer in watches, June 8 at 12, London, div.—*Wm. H. J. Keal* and *Daniel J. Roberts*, Rood-lane, London, and Prince Edward's Island, British North America, merchants, June 8 at 1, London, div.—*Robert Worley*, Newgate-street, City, provision merchant, June 11 at 12, London, div.—*H. Vos* and *J. C. Essers*, New-court, Crutched-friars, City, merchants, June 11 at half-past 11, London, div.—*James Brown*,

Alcester, Warwickshire, seed merchant, June 13 at 11, Birmingham, aud. ac. and div.—*Philip Ezekiel*, Manchester, general dealer, June 14 at 12, Manchester, div.—*Joseph Kershaw* and *Wm. George Kershaw*, Wakefield, Yorkshire, stonemasons, June 8 at 11, Leeds, div. joint est., and div. sep. est. of *Joseph Kershaw*.—*Thomas Pickworth* and *Robt. Walker*, Sheffield, Yorkshire, builders, June 9 at 10, Sheffield, div. sep. est. of *Robt. Walker*.—*John Lyons*, Sheffield, Yorkshire, steel manufacturer, June 9 at 10, Sheffield, div.—*James Camp*, Chesterfield, Derbyshire, boot maker, June 9 at 10, Sheffield, div.

## CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*David Cahn*, Leadenhall-street, City, dealer and chapman, June 8 at 1, London.—*Peter Taylor*, Saffron Walden, Essex, licensed victualler, June 8 at half-past 1, London.—*John D. Ayres*, Nottingham, merchant, June 12 at 1, London.—*Miles Beale*, Gray-street, Poplar, Middlesex, brass-founder, June 8 at 11, London.—*John Lough Moreland*, Lydford and Keinton, Somersetshire, grocer, June 18 at 11, Bristol.—*Roger D. M'Manus*, St. Austel, Cornwall, apothecary, June 15 at 1, Exeter.

*To be granted, unless an Appeal be duly entered.*

*Wm. Mullett*, Brookland, near Romney, Kent, grocer.—*Japheth Barton*, Landport, Portsea, brewer.—*Thomas Marshall*, Plymouth, Devonshire, builder.—*Samuel Russell*, West Hartlepool, Durham, builder.—*John R. Williams*, Sandbach, Cheshire, ironmonger.—*Jonathan Brignall*, Manchester, dyer.—*James Howarth*, Ashton-under-Lyne, Lancashire, linen-draper.—*Charles Marson* the elder, Leominster, Herefordshire, innkeeper.—*Henry Binning* and *George Douson*, Middlesbrough, Yorkshire, shipowners.

## PETITION ANNULLED.

*Benjamin Thomas Oakshott*, Portsea, Southampton, licensed brewer.

## SCOTCH SEQUESTRATIONS.

*Alexander Dunlop*, Glasgow, dairyman.—*Robert Drydale*, Craigforth, St. Ninians, Stirlingshire, farmer.—*John Munro*, Glasgow, tailor.—*Henry Ivison*, Annan, Dumfriesshire, beer house keeper.—*Archibald Maccallum*, Port-Glasgow, writer.—*William Sim*, Glasgow, grain merchant.—*Anne Robertson*, Dumbarton, spirit dealer.—*John Hendry*, Glasgow, measurer.—*Michael Shillito*, Peebles, commission agent.

## TUESDAY, May 22.

## BANKRUPTS.

WILLIAM BOUND the younger, Hanworthy, Poole, corn merchant, May 31 at 11, and June 28 at 1, London: Off. Ass. Bell; Sols. Aldridge & Harker, Poole; Skilbeck, 19, Southampton-buildings.—Pet. f. May 19.

THOMAS HOLLAND, late of Godalming, Surrey, now of Rheidol-terrace, Islington, Middlesex, manufacturer of hosiery, May 31 at half-past 1, and June 28 at 2, London: Off. Ass. Bell; Sols. Parker & Lee, 18, St. Paul's church-yard.—Pet. f. May 21.

LOUIS COOK, Great Cambridge-street, Hackney-road, Middlesex, boot manufacturer, June 1 at half-past 11, and June 29 at 12, London: Off. Ass. Cannan; Sol. Burr, 12, Paternoster-row.—Pet. f. May 16.

PAUL SAMPSON, Hythe, Kent, bootmaker, June 8 at 12, and July 6 at 11, London: Off. Ass. Cannan; Sols. Walters & Son, 36, Basinghall-street.—Pet. f. May 21.

FRANCIS AUGUSTUS PIZZALA and MATTHEW CHARLES GREENE, Hatton-garden, Middlesex, looking-glass manufacturers, May 30 at half-past 12, and June 27 at 2, London: Off. Ass. Graham; Sols. Lawrence & Co., 12, Bread-street, Cheapside, London.—Pet. made May 18.

WILLIAM WENHAM, Cannon-street West, City, (now a prisoner for debt in the Queen's Prison), dealer in foreign fancy goods, (trading under the firm of W. Wenham & Co.), May 30 at half-past 1, and July 3 at 12, London: Off. Ass. Graham; Sol. Speyer, 30, Broad-street-buildings, London.—Pet. f. May 19.

JOHN STRETTON FERGUSON, Nottingham, builder, June 7 and 26 at half-past 11, Nottingham: Off. Ass. Harris; Sols. Parsons & Son, Nottingham.—Pet. f. May 18.

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## THE JURIST.

LONDON, MAY 26, 1860.

It is conceded that the Lords in Parliament once possessed, and still may possess, the legal and technical right of placing their absolute veto upon a money bill; but it is said by some that they have not exercised this right since the revolution of 1688; that it has therefore fallen into desuetude, is now opposed to the spirit of the constitution, and ought no longer to be exercised. It is also conceded, on the other hand, that all money bills must originate in the House of Commons\*, and that they will not be received back by them from the Lords in an altered or amended form. Lord Lyndhurst, on the occasion of the recent debate in the House of Lords on the repeal of the paper duty†, gave some interesting illustrations of these constitutional doctrines. He quoted a resolution of the House of Commons in 1671, that "in all aids given to the King by the Commons the rate or tax ought not to be altered;" and in 1673, that "all aids and supplies and aids to his Majesty in Parliament are the sole gift of the Commons, and all bills for the granting of any such aids or supplies ought to begin with the Com-

\* A money act is peculiar in its form, and treats the supply as the gift of the Commons alone:—"Most gracious Sovereign, we, your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom of Great Britain and Ireland in Parliament assembled, towards making good the supply which we have cheerfully granted to your Majesty in this session of Parliament, have resolved to grant unto your Majesty the sum hereafter mentioned, and do therefore most humbly beseech your Majesty that it may be enacted, and be it enacted, by and with the advice of the Lords spiritual and temporal," &c.

† May 21, 1860.

mons, and that it is the undoubted and sole right of the Commons to direct, limit, and appoint, in such bills, the ends, purposes, considerations, conditions, limitations, and qualifications of such grants, which ought not to be changed or altered by the House of Lords." In 1689, which Lord Lyndhurst described as one of the best periods in our history, the Lords amended a money bill. The Commons disagreed, and desired a conference, and in their reasons given for desiring it is the following important statement:—"All money aids and taxes to be raised or charged upon the subjects in Parliament are the gift and grant of the Commons in Parliament, and are, and always have been, and ought to be, by the constitution and ancient course and laws of Parliament, and by the ancient and undoubted rights of the Commons of England, the sole and entire gift, grant, and present of the Commons in Parliament, and to be laid, rated, raised, and paid for the public service and use of the Government as the Commons shall direct, limit, and appoint, and modify the same. And the Lords are not to alter such gift, grant, limitation, appointment, or modification of the Commons in any part or circumstance, or otherwise to interpose in such bills than to pass or reject the same for the whole, without any alteration or amendment, though in ease of the subjects. As the Kings and Queens, by the laws and constitution of Parliament, are to take all or to leave all in such gifts, grants, and presents from the Commons, and cannot take part and leave part, so are the Lords to pass all or reject all, without diminution or alteration." The noble and learned Lord then adverted to the question of usage, and, with reference to his own observations upon the Life Peerage Bill, said, "It was stated that 400 years ago the Government had created a life peerage, but no instance had occurred since that time. The argument

I made use of was, that everything in this country depends on long usage and prescription; when, therefore, no such right has been exercised for 400 years, and no claim has been put forward during that period, it ought not to be acted on, and cannot be considered as part of the law and constitution of the country, particularly after the many changes, including a revolution and a restoration, which have taken place." Lord Lyndhurst, however, asserts that money bills have been rejected by the Lords on several occasions within a recent period. Among the more modern instances, he cited one of 1809, when a bill from the Commons for continuing and granting certain duties on malt was rejected; one of 1789, when a bill for imposing duties on cocoa-nuts was rejected; and a similar instance occurred in 1790. And not only bills for imposing, but for granting relief from taxation, were shewn to have been thus rejected. In 1790, a bill to relieve the coasting trade of Great Britain, by removing stamps on certain documents, and abolishing stamps respecting the Isle of Man; in 1805, a bill for abolishing certain fees payable to custom-house officers in England; in 1807, a like measure with regard to Ireland; in 1808, a bill for repealing duties on coals carried coastwise in Wales; and in 1811, a bill to suspend for one year the duties on corn, and to permit the distillation of spirits from molasses, were rejected by the House of Lords.

We cannot better state the objections which are urged to these precedents, and to several of a like character quoted by Lord Montague, and their applicability to the question before the House, than by extracting a portion of Lord Cranworth's speech in answer to Lord Lyndhurst. His Lordship observed—"I venture to say, with as much confidence as one can speak of a negative proposition, that this is a course that has never been before taken by the House. . . . The course your Lordships are now asked to take is, if not absolutely unconstitutional, at least so thinly separated that to ordinary minds the difference is unintelligible. What did my noble and learned friend say? He said that we had the power to do that which we were now asked to do—that an existing tax could not be repealed without an act of Parliament, and that such act could not pass without your Lordships' concurrence. But that is a truism which never has been disputed. My noble and learned friend quoted examples in the year 1689, but he did not at all advance his argument thereby. No doubt this House cannot alter a money bill without the consent of the House of Commons. All you can do is to reject a bill, whether it be for relief or burthen. But I say, up to this hour, no such step has been taken by this House as to refuse to concur in the repeal of a tax under circumstances such as now exist. I will deal with the meagre precedents quoted by my noble and learned friend presently. What is it we are asked to do now? The Crown has communicated to the House of Commons what are the wants of the State. Those wants have been discussed, modified, and approved, and, in the exercise of their constitutional functions, they have found ways and means for those wants, and have come to the conclusion that this particular tax is not necessary for the wants of the State. I say that a bill founded upon such considerations being brought here, there never has been since the Revolution an instance of this House rejecting such a bill. My noble and learned friend said he had several precedents, and until he stated them I was under the belief that my search, although laborious, had been imperfect; but when he told us what those precedents were, I found that I was justified in my opinion that there were no precedents to justify such a course as we are now asked to take. The first instance given was in 1790, when this House rejected a bill to relieve the coasting trade by removing stamps from certain documents. I

do not mean to say that there are not instances where, upon collateral grounds, the repeal of some tax has been thought undesirable, and the Lords have exercised their right of refusing their assent to the repeal. But in this case there is a most important distinction, which your Lordships must not think is the quibble of a lawyer. My noble and learned friend, in referring to the precedent on which he relied, omitted—no doubt inadvertently—one little word, which made all the difference in the world. He described the act as one to relieve the coasting trade by removing certain stamp duties. But the act had several objects. It was to relieve the coasting trade, to remove stamp duties, and to abolish bonds. Now, it is matter of A B C, that if anything is tacked to a money bill, this House has a right to reject the whole. The instance cited by my noble and learned friend is open also to another observation. This House was moved to go into committee on the bill on Tuesday, the 8th June. They determined not to do so, and the prorogation came the next day but one. Now, the Lords might very well think that was not the way to treat them. The measure probably came before them at a time when there were not many in attendance; and this of itself would furnish sufficient grounds for rejecting it. Well, then, the two next cases quoted by my noble and learned friend seemed to me not to touch the question. In two consecutive years, it appears, the House of Commons passed bills to abolish the fees payable to certain custom-house officers. This House rejected them. Did those bills affect the annual revenue of the country? Technically it may be that the Lords on those occasions refused to repeal a tax, but in substance they did not; and in these matters it is the substance, and not a mere technical analogy, to which we should look. The only precedent which seemed to possess any weight was that of 1811—I mean the bill respecting molasses. But even that precedent was a good deal strained. In 1811 the price of wheat was enormous, averaging, I think, from 11s. to 12s.; and of course barley was dear in proportion. For the purpose of relieving the pressure occasioned by these high prices, the House of Commons introduced a bill to reduce the duty on molasses, in order that a distillation might go on mainly from sugar, and not from corn. That bill came up here on the 6th May. Now, the important point in the case is, that the financial statement of the Government that year was not made till the 20th May. No doubt, therefore, the Government wanted to know, before introducing the budget, whether the bill would be approved by the great landowners of this House; and in the debate the Earl of Suffolk, who led the opposition to the bill, gave a clue to the whole case when he said he was happy to find that the motion was not to be made a party question. The Government were, no doubt, sounding both Houses, to see whether they would or would not adopt this measure as part of their financial scheme. The House, very likely thinking it was a covert way of interfering with the agriculturists for the benefit of the West Indian interest, refused to pass the bill, and a budget was afterwards framed in accordance with that refusal. The case differed entirely from the one now before us, and the course of the Government was open to objection upon totally different grounds. It furnishes no precedent for the course which you are now asked to pursue. Here the budget has been introduced and has been confirmed, one of its provisions being the repeal of a certain tax which is declared to be not wanted for the public service; and you are asked to say, 'Though the tax is not wanted, it shall still be levied.' These were the precedents of my noble and learned friend. My noble friend (Lord Montague) alluded to two others, one of which occurred a century ago. From the nature of the tax, it was evidently one which this House rejected, not upon

any financial grounds; but because it was an interference with one interest in favour of another. In 1758 there seem to have been bills to allow the importation of cattle from Ireland, and there was also the tallow bill. These were two measures having relation to Irish and English produce, and, for some reason or other, this House thought they ought not to pass. In any case they would only furnish a technical, and not a substantial, precedent. Then, again, in 1816 this House rejected a bill for taking off the duty on stone bottles. At that time the duty on stone bottles was a complicated one; there was one duty on bottles introduced from Ireland, and another on bottles manufactured in England, the general duty being one of 2s. 6d. per cwt. All we know is, that a bill for repealing the duty passed the House of Commons, and that, five days before the prorogation, this entry occurs in the journals:—"Present so and so—Order of the day for going into the stone bottle bill put off for six months." The Government appear to have been misled into proposing something which ought not to have been proposed. In the next session they introduced a bill, not for taking off the duty, but for doubling it; and the duty accordingly became 5s. instead of 2s. 6d. These precedents are equally invalid as regards the substance of the present bill. . . . I cannot conclude without expressing a hope that your Lordships will not, on this occasion, take a step sanctioned by no substantial precedent since the Revolution. I do think, that by attempting to make such a precedent in the case of a tax which has been more than once disapproved on principle by the other House of Parliament, and which affects a most influential class of the community, you will be taking a step which will very materially endanger the high position which I am persuaded you hold in the estimation of the country, and which you will continue to hold so long as the country sees that you neither actually interfere with the constitutional rights of the other House, nor do that which is not to be distinguished from such an interference—namely, refrain from imposing, but refuse to repeal, a tax."

## SUBSCRIPTIONS FOR THE SICILIANS.

In the recent debate on this subject in the House of Commons (May 18) a case was referred to as having been decided in 1824 by Best, C. J., and as having a material bearing upon the question. The case is that of *De Wijs v. Headricks*, (2 Bing. 314). The plaintiff there had proposed to raise a loan for the Greeks in arms against the government of the Porte. For this purpose he had lodged with the defendant an instrument, which was alleged to be a power of attorney, signed abroad by the Exarch of Ravenna, but which turned out to have been fabricated in London. The plaintiff sued in trover for this paper, and a verdict having been found against him, upon the ground that the whole transaction was a fraud on his part, the Court refused a new trial, Best, C. J., saying—"It occurred to me at the trial that it was contrary to the law of nations (which, in all cases of international law, is adopted into the municipal code of every civilised country) for persons in England to enter into engagements to raise money to support the subjects of a government in amity with our own, in hostilities against their government, and that no right of action could arise out of such a transaction. . . . In consequence of what I said, a note has since been sent me of a case that occurred lately in Chancery, in which the Lord Chancellor is reported to have said: that English courts of justice will afford no assistance to persons who set about to raise loans for subjects of the King of Spain, to enable them to prosecute a war against that sove-

reign. Had I been aware that my opinion was supported by such high authority (although the counsel for the defendant would not take the objection) I should have nonsuited the plaintiff. On further consideration, I think that my opinion at the trial was right, and on that ground we ought not to grant a new trial."

## EXCHEQUER CHAMBER.

Errors will be taken from the Court of Common Pleas on the 13th June; Court of Queen's Bench on the 14th, 15th, and 16th June; and from the Court of Exchequer on the 18th and 19th June.

## EQUITY CAUSE LISTS, TRINITY TERM, 1866.

\* \* The following abbreviations have been adopted to abridge the space the Cause Papers would otherwise have occupied:—A. Abated—Adj. Adjourned—A. T. After Term—Ap. Appeal—C. D. Cause Day—Cl. Claim—C. Costs—D. Demurrer—E. Exceptions—F. C. Further Consideration—F. D. Further Directions—M. Motion—M. D. Motion for Decree—P. C. Pro Confesso—Pl. Plea—Ptn. Petition—R. Rehearing—S. O. Stand Over—Sh. Short.

Before the LORD CHANCELLOR and the LORDS JUSTICES.

### APPEALS.

Gray v. Falconer (R., Jan. 28, part heard)  
Hancock v. Bewley (W., Mar. 7)  
Wood v. Farthing (R., Mar. 10)  
Perry v. Holl (S., Mar. 22)  
Rankin v. Lay (S., Mar. 30)  
Carne v. Long (S., April 3)  
Arnold v. Bainbridge } (R.,  
Wolferstan v. Bain- } April  
bridge } 12)  
Cooper v. Cartwright (W., April 17)  
Reid v. Stearn (S., April 18)  
Nichols v. Ibbetson (W., April 20)  
Bradstock v. Whatley (R., April 26)

Plumstead, Woolwich, and Charlton Consumers' Pure Water Co., and Plumstead, Woolwich, & Charlton Consumers' Pure Water Co. (Limited) v. Davis (R., April 23)  
Walters v. Morgan (W., April 30)  
Morton v. Pusey (K., May 2)  
Cooper v. Cartwright (W., May 4)  
Greenway v. Greenway (S., May 6)  
Namur & Liege Railway Co. v. Ponsford (W., May 7)  
Abbott v. Blair (W., May 7)  
Sturgis v. Morse (R., May 7)  
Allen v. Webster (S., May 9)  
Kendall v. Masters (W., May 16).

Before the Right Hon. the MASTER OF THE ROLLS.

### CAUSES, &c.

In re Roebuck's Estate } (F	In re Martin's Estate } (F C)
Roebuck v. Allen } C)	Seccombe v. Edwards } (F C)
Pole v. Leask } (Cause)	Gurney v. Watson (F C)
Leask v. Pole } May 23	Thomas v. Rawlings (M D)
Brown v. Harte (Cause) May 23	Steele v. Townson (F C)
Watson v. Baker (M D)	Coates v. Coates (M D)
Harbin v. Darby (F C, Summons to vary certificate)	Roberts v. Robinson (F C)
Laurie v. Brown (M D)	Ion v. Ashton (F C)
Leathes v. Thomson (M D)	Atchley v. Oakman (F C)
Gover v. Towers (F C)	Att.-Gen. v. Brooke (F C)
Birks v. Micklethwait (M D)	Ruttledge v. Butler (M D)
Jeffreys v. Miller (M D)	Hopkins v. Pennell (M D)
Rutter v. Ashfield (F C)	Bethell v. Irlam (M D)
In re Stracey's Estate } (F C)	Harvey v. Harvey (F C)
Stracey v. Stracey } (F C)	Gunson v. Gunson (M D)
Clarke v. Fletcher (M D)	Dennison v. Bradley (M D)
Donnithorne v. Donnithorne (M D)	Ingle v. Richards (F C, 2 Summons to vary certif.)
Atkinson v. Hicks (M D)	Hill v. Bonner (F C)
M'Lachlan v. Tait (F C)	Westall v. Sparrowell (Cause)
Bricknell v. Pugh (Cause)	Richardson v. Ward } (F D,
Bright v. Legerton (M D)	McCleod v. Lane } C)
Ritchie v. Couper (Cause)	Carr v. Living (F C)
Cumming v. Fraser (M D)	Carr v. Living (F C)
Ralston v. Hall (F C)	Essell v. Hayward (M D)
In re Cowling, dec. } (F C, adj. Cowling v. Cowling } from ch.)	Todhunter v. Merryweather (Cause)
Turley v. Morris (M D)	Bankart v. Bankart (Cause)
	Spencer v. Pearson (F C, Summons to vary certificate)



Nightingale v. Rushton (F C)  
 Taylor v. Miles (Sp. case)  
 Eland v. Baker (F C)  
 Staunton v. Vavasour } (F C)  
 Elmsall v. Graves }  
 Southgate v. Southgate (Cau.)  
 Barling v. Bishop (Cause)  
 Glover v. Croll (Cause)  
 Bank of London v. Tyrrell (F C)  
 Hornby v. Wilks (F C)  
 Langham v. Reynolds (M D)  
 Holmes v. Woodward (M D)  
 Hill v. Mount (M D)  
 Hemsworth v. Campbell (F C)  
 Townsend v. Early (F C)  
 In re Townsend's Estate } Sum. to  
 Goldiecutt v. Towns- } vary  
 end ) certif.  
 Stansfeld v. Wyatt (F C)  
 Tomkyns v. Blaine (M D)  
 Trezevant v. Broughton (F C)  
 Randall v. Elford (F C)  
 Rowland v. Roupell (Cause)  
 Edwards v. Mitcheson (F C, Summons to vary certif.)  
 Barker v. Wolley } (F C)  
 Barker v. Wolley }  
 Newman v. Austen (M D)  
 Boys v. Boys (M D)  
 Knight v. Roskell (M D)  
 Holderness v. Lamport (Cau.)

*Before the Vice-Chancellor Sir RICHARD T. KINDERSLEY.*

CAUSES, &c.

Parkinson v. Hanbury (Cau., at def.'s request, part hd.)  
 Att.-Gen. v. Great Northern Railway Co. (M D)  
 Woods v. Duplessis (Cause)  
 Shaw v. Johnson (Cause)  
 Orange v. Pickford (F C, Summons to vary certif.)  
 Faulkner v. Phipps (Cl)  
 Hill v. Hill (Special case)  
 Lee v. Rennard (F C)  
 Webster v. Le Hunt (Cause)  
 Le Hunt v. Webster (Cause)  
 Grimsby v. Webster (Cause)  
 Howard v. Robinson (M D)  
 Smith v. Domville (M D)  
 Curling v. Austin (Cl)  
 Hughes v. Chester and Holyhead Railway Co. (M D)  
 In re Smith } (F C)  
 S. J. Smith v. F. Smith }  
 Austin v. Curling (Cl)  
 Arnold v. Chaplin (F C)  
 Gimson v. Downing (F C)  
 Munger v. Moores (F C)  
 Watlington v. Pridaux (F C, Summons to vary certif.)  
 Brown v. Savage (F C)  
 Guillon v. Rotch } (F C, Summons, adj. from chambers)  
 Rotch v. Guillon }  
 Horner v. Johnson (M D)

*Before the Vice-Chancellor Sir JOHN STUART.*

CAUSES, &c.

Woolnough v. Gregson (M D)  
 Case v. Case (M D)  
 Burnett v. Burnett (F C)  
 Smith v. Clark (M D)  
 Law v. Hargreaves (M D)  
 Parry v. Hughes (M D)

Kendall v. Hill (M D)  
 Steward v. Brightwell (F C)  
 Crosbie v. Guion (F C)  
 Parkins v. Davies (F C, Summons to vary certificate)  
 Hedges v. Metropolitan Railway Co. (M D) *May 22*  
 Sparks v. Nuth (M D)  
 Stoor v. Wilson (F C)  
 Pearce v. Spencer (F C, 2 Sums. to vary certificate)  
 Fox v. Taylor (F C)  
 Davies v. Davies (F C)  
 Swift v. Swift (F C)  
 Leigh v. Mosley (M D, Ptn)  
 Pease v. Cheesbrough (F C)  
 Proby v. Landor (M D)  
 Lupton v. Wood (M D)  
 Frogley v. Phillips (F C)  
 Mellersh v. Keen (F C, Summons to vary certificate)  
 Steele v. Waller (M D)  
 Wade v. East India Co. (M D)  
 Matthews v. Williams (M D)  
 Evans v. Lewis (F C)  
 Young v. Shearwood (Cause)  
 Fitzsimons v. Fitzsimons (F C)  
 Maughan v. Glennan (M D)  
 Mason v. Woodforde (F C)  
 In re Hall's Estate } (F C)  
 Woodburn v. Rowley }  
 Perry v. Howells (F C)

Towle v. National Guardian Assurance Society (M D)  
 Hall v. Powell (M D)  
 Borton v. Dunbar (M D)  
 Thomas v. Griffiths (M D)  
 Patman v. Healey (Cause)  
 Secretary of State in Council of India v. Meffan (M D)  
 Green v. Green (M D)  
 Cresswell v. Daniel (M D)  
 Marix v. Rumball (Cause)  
 Edwards v. Hards (Cause)  
 Challoner v. Dixon (M D)  
 Grindle v. Turner (Cause)  
 Price v. Grant (M D)  
 Crowther v. Evans (M D)  
 Scottowe v. Williams (M D)  
 Godsman v. Natrass (M D)  
 Davies v. Davies (Cause)  
 Davies & an. v. Davies (Cau.)  
 Bray v. Tobitt (M D)  
 Undershell v. Casey (Cause, P C)  
 Findlay v. Sewell (F C, part heard)  
 Chesshyre v. Biss (Cause)  
 Bennett v. Bennett (F C, Summons)

*Before the Vice-Chancellor Sir W. P. WOOD.*

CAUSES, &c.

Jaques v. Jaques (M D, part heard) *May 24*  
 Horsfall v. Baxendall (M D, part heard)  
 Walker v. Walker (D)  
 Adamson v. Birkenhead Docks (F C)  
 Hall v. Wilson (M D, part hd.)  
 Piper v. Piper (Special case)  
 Wells v. Wood (F C)  
 Andrews v. Taylor (F C)  
 Pee v. Pee (F C)  
 Pee v. Round (M D)  
 Pembroke v. Friend (F C)  
 Parmiter v. Parmiter (Cause)  
 In re Parmiter's Estate } Summons  
 to vary  
 miter } certif.  
 Ransford v. Griffiths (Cause)  
 Appleyard, formerly Eyre, v. Monro (F C)  
 Laird v. Birkenhead Railway Co. (M D)  
 Lewin v. Allen (M D)  
 Goldsmid v. Haswell } (M D)  
 Haswell v. Goldsmid }  
 Phippen v. Bath (F C)  
 Whalley v. Ramage (Cause)  
 Milburn v. Gregory (M D)  
 Milburn v. Gregory & ora. (Cause)  
 Fairbridge v. Bradley (M D)  
 Borghese v. Borghese (F C)  
 Di Sora v. Borghese (Ca.) } *May 26*  
 Pamphill v. Pamphill (F C)  
 Wicks v. Scrivens (Cause)  
 Ray v. Lipscomb (M D)  
 Liverpool Borough Bank v. Turner (M D)  
 Thayer v. Lister (Cause)  
 Welchman v. Coventry Union Banking Co. (M D)  
 Wilson v. Whateley (Special case)  
 Swainson v. Dobson (F C)  
 Cleave v. Hillhouse (M D)

Bates v. Cock (F C)  
 Ennor v. Barwell (M D)  
 Conway v. Vernon (M D)  
 Smith v. Major (Cause)  
 Vance v. Bond (F C)  
 Bradford v. Nettleship (M D)  
 Howard v. Barnwell (M D)  
 In re Watts' Estate } (F C)  
 Piper v. Mash }  
 Jones v. Jones (M D)  
 Peters v. Healey (M D)  
 Elwes v. Elwes (Cause)  
 Sanders v. Keep (F C)  
 Whiteway v. Fisher (M D)  
 Williams v. Cooke (M D)  
 Att.-Gen. v. Cowlisham (M D)  
 Williams v. Rowlands (F C)  
 Shum v. Hodges (M D)  
 Thorpe v. Hodgkinson (F C)  
 Morgan v. Atkinson (F C)  
 Scobell v. Keen (M D)  
 Hammond v. Pickernell (M D)  
 Bright v. Sidney (M D)  
 Parkin v. Proudfoot (F C)  
 Cotching v. Scraggs (2) (F C)  
 Watson v. Reed (M D)  
 Kenrick v. Barber (Cause).

Moffat v. Money (Cause)  
 Gover v. Mathews (M D)  
 Hodder v. Tarte (Cause)  
 Spencer v. Locke (F C, Summons to vary certificate)  
 Watkins v. Smith (Cause)  
 Monkhouse v. Hebdon (F C)  
 Curwen v. Jameson (M D)  
 Kelly v. Wightman (M D)  
 Williams v. Lewis (Cause)  
 Walker v. Willan (F C)  
 Glover v. Baker (M D)  
 Jackson v. Calvert (Cause)  
 Dean v. Handley (M D)  
 White v. Brown (Cause)  
 Price v. Newton (M D)  
 Newby v. Chaytor (Cause)  
 Standen v. Hutchings (F C)  
 Edwards v. Williams (Cause) *May 23*  
 Woodcock v. Rowbotham (M D)  
 Harrison v. Barton (M D)  
 Llewellyn v. Barrett (F C)  
 Goodyear v. Sebright (M D)  
 Wrightson v. Calvert (M D)  
 Barker v. Johnson (F C, Ptn)  
 Aplin v. Cates (M D)  
 Grierson v. Astle (M D)  
 Williams v. Ashton (F C)  
 Wetherell v. Thomas (Cause)  
 Beadnell v. Richards (M D)  
 Phippen v. Phippen (M D)  
 Spaight v. Rymer (Cause, Ptn)  
 Perkins v. Cooke (M D)  
 Warren v. Cutts (Cause)  
 Walker v. Page (F C)  
 Windsor v. Cross (F C, Ptn)  
 Herenc v. Brown (M D)  
 Clarke v. Franklin (F C)  
 Vaughan v. South Metropolitan Cemetery Co. (Cause)  
 Cottam v. Eastern Counties Railway Co. (Cause)  
 Scott v. Miller (Cause)  
 Footner v. Jolliffe (M D)  
 Lovegrove v. Davis (F C)  
 Coston v. Gardner (Cause)

Peterson v. Maggs (M D)  
Descombes v. Chollet (M D)  
Furness v. Hunt (F C)  
Valentin v. Collison (M D)  
Wyatt v. Mostyn (Cause)  
Rollison v. Council of the Borough of Birmingham (M D)  
Stone v. Parker (M D)  
Deane v. Foster (M D)  
Williams v. Nicholls (Cause)  
Fraser v. Clark (Cause)  
Dow v. Baker (M D)  
Shelton v. Smith (M D)  
Fryer v. Mortimore (Cause)  
Graham v. Graham (F C)  
Stephenson v. Garfitt (F C)  
Hairby v. Keith (Cause)  
Thompson v. Whitmore (M D)  
Young v. Phillips (M D)  
Sutcliffe v. Dewhurst (M D)  
Hutton v. Hutton (M D)  
Richards v. Richards (M D)  
Dalston v. Hedley (M D)  
Gibbs v. Laurence (Sp. case)  
Ingram v. Midland Railway Co. (M D)  
Davies v. Marshall (M D)  
Jarvis v. Moore (M D)  
Le Maitre v. Wing (M D)  
Tuer v. Gregory (F C)  
Antrobus v. Freeman (M D)  
Grigg v. Carr (F C)  
Gower v. Gower (Sp. case)

Langston v. Cooke (Cause)  
Oakes v. Buckley (M D)  
Ackerley v. Cains (F C)  
Hadrick v. Sturgis (M D)  
Tompson v. Hope (Cause)  
Pickles v. Pickles (Cause)  
Bedwell v. Prudence (M D)  
Cook v. Pennell (Cause)  
Andrews v. Higgs (M D)  
Penrice v. Leatherdale (F C)  
Perez v. Hamer (M D)  
Jenks v. Caton (F C)  
Haynes v. Haynes (M D)  
Wright v. Tuckett (M D)  
Eastham v. Wilkinson (Further hearing)  
Vicary v. Vicary (Sp. case)  
Baillie v. Howard (M D)  
Dore v. Painter (Cause)  
Newton v. Highway (M D)  
Whitmore v. Bainbridge (M D)  
Jellicoe v. Turquand (M D)  
Lemon v. Whimper (M D)  
Att-Gen. v. Sawyer (M D)  
Smith v. Sanger (M D)  
Whitmore v. Turquand (M D)  
North-eastern Railway Co. v. Elliott (M D) May 25  
Tompsett v. Harmer (M D)  
Hutton v. Bell (M D)  
Batten v. Gibbons (F C)  
Heywood v. Heywood (M D)  
Backhouse v. Goodwin (F C)  
Clayton v. Cowland (M D).

Matthew Bradbury and George Weaver, Tunstall, Staffordshire, drapers, June 15 at 11, Birmingham, aud. ac.—*Saml. Beddoe* the elder, Tipton and West Bromwich, Staffordshire, rope manufacturer, June 15 at 11, Birmingham, aud. ac.—*John Goodfellow*, Coventry, Warwickshire, cabinet maker, June 21 at 11, Birmingham, aud. ac.—*Leon Millard* and *Richard Harcourt*, Birmingham, modellers, June 21 at 11, Birmingham, aud. ac.—*John W. Hamilton*, Birmingham, stockbroker, June 21 at 11, Birmingham, aud. ac.—*Edwin Hyett*, Worcester, baker, June 22 at 11, Birmingham, aud. ac.—*Wm. S. Lynam*, Birmingham, plumber, June 22 at 11, Birmingham, aud. ac.—*Wm. Newth*, Cradley-heath, Staffordshire, milliner, June 22 at 11, Birmingham, aud. ac.—*William J. T. Smith*, Birmingham, fancy paper-box maker, June 28 at 11, Birmingham, aud. ac.—*William Bracewell*, Barnoldswick, Yorkshire, cotton spinner, June 1 at 11, Leeds, aud. ac.—*Joshua Eyre*, Sheffield, Yorkshire, grocer, June 2 at 10, Sheffield, aud. ac.—*James Melling* and *Robert Carr*, Attercliffe-cum-Darnall, Yorkshire, glass manufacturers, June 2 at 10, Sheffield, aud. ac. sep. est. of *Robert Carr*.—*John S. Booth*, Sheffield, Yorkshire, pianoforte dealer, June 2 at 10, Sheffield, aud. ac.—*George Freeman* and *Henry Bentley Wrixon*, Blenheim-street, Oxford-street, Middlesex, lead and glass merchants, June 15 at half-past 11, London, div.—*Matthew White*, Finsbury-square, merchant, June 15 at 11, London, div.—*Peter Stainsby*, Salvador House, Bishopsgate-street, City; Ponteford, near Shrewsbury, Shropshire; and *Parson's-green*, Fulham, Middlesex, smelter, June 15 at 12, London, div.—*Charles Warwick*, Friday-street, Cheapside, City, fancy-dress warehouseman, June 12 at 12, London, div.—*Thomas Weston*, Southampton, plumber, June 15 at 11, London, div.—*Charles Wynne Davies*, Brownlow-street, Holborn, Middlesex, licensed victualler, June 13 at half-past 11, London, div.—*Menahem Levy Bensusan*, *Samuel Levy Bensusan*, *Jacob Levy Bensusan*, and *Joshua Levy Bensusan*, Magdalen-row, Great Prescott-street, Goodman's-fields, Middlesex, merchants, June 13 at 12, London, fn. div. sep. est. of *Joshua Levy Bensusan*.—*Wm. Toovey Ashfield*, Church-street, Lambeth, Surrey, copper-plate printer, June 13 at half-past 12, London, div.—*Alexander Winton*, *David Winton*, and *James Webber*, Wood-street, Cheapside, City, warehousemen, June 13 at 1, London, div. sep. est. of *James Webber*.—*Roger Heaketh Fleetwood Williams* and *Mayson Wilson*, Liverpool, merchants, June 13 at 11, London, div.—*Felix Whitmore*, Lambeth, Surrey, brewer, June 13 at 1, London, div.—*Elizabeth Weidon*, Cambridge, butcher, June 13 at 11, London, div.—*Edmond Thomas Waters*, Old South-sea House, City, merchant, June 13 at 12, London, div.—*Samuel Stevenson*, Leicester, dealer in yarns, June 21 at 11, Nottingham, aud. ac. and div.—*William Kynnersley* and *Henry Kynnersley*, Tatenhill, Staffordshire, millers, June 28 at 11, Birmingham, div.—*John Pearce*, Worcester, licensed victualler, June 28 at 11, Birmingham, div.—*Lewis Meredith*, Shrewsbury and Church Stretton, Shropshire, grocer, June 18 at 11, Birmingham, div.—*Joseph Pinkess*, Liverpool, oil and colour man, June 19 at 11, Liverpool, div.—*Mark Bowden*, Bristol, looking-glass manufacturer, June 14 at 11, Bristol, div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

*Thomas Murrelle*, Brighton, Sussex, stationer, June 14 at 12, London.—*Charles Pavia*, Lime-street, City, merchant, June 13 at 1, London.—*James Blackmore*, Wellington, Somersetshire, builder, June 27 at 1, Exeter.—*Philip Hawks*, Kinson Lodge, near Poole, Dorsetshire, brickmaker, June 27 at 1, Exeter.—*Christopher Langridge* and *Joseph Midgley*, Manchester, drysalters, June 13 at 12, Manchester.

To be granted, unless an Appeal be duly entered.

*James Lane*, Kingaland-place, Kingsland-road, Middlesex, and Threadneedle-street, City, mining-share broker.—*George Simons* and *Moses Simons*, King's-square, Goswell-road, Middlesex, watch manufacturers.—*Henry Stephens*, Exeter, lunkeeper.—*Grace Keenor* and *Sophia Baillie*, Exeter, milliners.—*William Bracewell*, Coates, near Barnoldswick, Yorkshire, cotton spinner.—*Lister Priestley*, Heckmondwike, Yorkshire, commission agent.—*Thomas Wilson*, Wickersley, near Rotherham, Yorkshire, farmer.—*William Worrall*, West Melton, near Wath, Yorkshire, grocer.

HENRY ELLIOTT, Maidenhead, Berkshire, timber merchant, June 4 at half-past 2, and July 9 at 2, London: Off. Ass. Pennell; Sol. Buchanan, 1, Walbrook-buildings, City.—Pet. f. May 21.

EDWARD GARDNER, Northampton, builder, June 4 at half-past 1, and July 9 at 1, London: Off. Ass. Pennell; Sols. J. & J. H. Linklater & Co., 7, Walbrook, London.—Pet. f. May 18.

GEORGE VERNON JACKSON, New Broad-street, City, commission merchant, (trading under the name, style, or firm of Jackson & Co.), June 5 at 1, and July 3 at 12, London: Off. Ass. Edwards; Sol. Perry, 2, Guildhall-chambers, Basinghall-street, London.—Pet. f. May 10.

FREDERICK GIBSON, Tottenham-road, Kingaland-road; Ball's-pond-road, Islington; and King-street, Turk-street, Bethnal-green, Middlesex, baker, June 5 at 2, and July 3 at 1, London: Off. Ass. Lee; Sol. Hilleary, 5, Fenchurch-street.—Pet. f. May 17.

WILLIAM WATKIN DAVIES, Cardiff, Glamorganshire, draper, June 5 and July 3 at 11, Bristol: Off. Ass. Miller; Sols. Bevan & Co., Bristol; Davidson & Co., Weavers' Hall, London.—Pet. f. May 7.

JOHN POOLEY, Liverpool, and Peterborough, Northamptonshire, contractor, May 29 and June 25 at 11, Liverpool: Off. Ass. Morgan; Sols. Neal & Martin, Liverpool.—Pet. f. May 18.

JOHN RAY GREGG, Whitehaven, Cumberland, grocer, May 31 and July 18 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Griffith & Crighton, Newcastle-upon-Tyne; Musgrave, Whitehaven.—Pet. f. May 19.

MEETINGS.

*Samuel Davidson* and *Adolph Kauter*, St. Mary-axe, London, importers of foreign merchandise, May 31 at 1, London, last ex.—*Samuel Bothwell*, Dorking, Surrey, builder, June 2 at 12, London, last ex.—*Elijah Pinkess*, Liverpool, oilman, June 18 at 11, Liverpool, aud. ac.—*Wm. Forrester*, Hanley, Staffordshire, iron merchant, June 14 at 11, Birmingham, aud. ac.—*Wm. Alderton*, Wolverhampton, Staffordshire, grocer, June 14 at 11, Birmingham, aud. ac.—*John Brown*, West Bromwich, Staffordshire, corn factor, June 14 at 11, Birmingham, aud. ac.—*John Biggs*, Wolverhampton, Staffordshire, coal dealer, June 14 at 11, Birmingham, aud. ac.—*Abraham Cross*, West Bromwich, Staffordshire, ironfounder, June 15 at 11, Birmingham, aud. ac.—

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## GAZETTES.—FRIDAY, May 25.

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**HORACE WATLING SEXTON**, Norwich, builder, June 7 at 1, and June 28 at 11, London: Off. Ass. Johnson; Sols. Mendham, Norwich; Storey, 17, Featherstone-buildings, Holborn, London.—Pet. f. May 21.

**MICHAEL PERRY**, Bloomsbury-market, Oxford-street, Middlesex, passe-partouts manufacturer, June 8 at 2, and July 6 at 1, London: Off. Ass. Whitmore; Sol. Levy, 29, Henrietta-street, Covent-garden.—Pet. f. May 24.

**GEORGE HYDE PARKER**, High-st., Southwark, Surrey, grocer, June 6 at half-past 12, and July 3 at 1, London: Off. Ass. Graham; Sols. Walter & Moojen, 8, Southampton-street, Bloomsbury.—Pet. f. May 15.

**WILLIAM HUNTER**, Three Colt-street, Limehouse, Middlesex, ship joiner, June 6 at half-past 1, and July 4 at 12, London: Off. Ass. Graham; Sol. Strong, 44, Jewin-street, Cripplegate.—Pet. f. May 25.

**ALEXANDER DALRYMPLE BELL** and **EMIL BRAS-SART**, Goldsmith-street, City, silk fringe manufacturers, June 7 at 11, and July 9 at 12, London: Off. Ass. Pennell; Sols. Lawrence & Co., 14, Old Jewry-chambers, Old Jewry.—Pet. f. May 22.

**EUGENE M'SWINEY**, Fenchurch-street, City, merchant, (now a prisoner in the Queen's Bench Prison), June 4 at half-past 11, and July 16 at 12, London: Off. Ass. Pennell; Sols. Reyroux & Bromehead, 91, Cannon-street, City.—Pet. f. May 19.

**GEORGE WEST**, Wapping, Middlesex, shipowner, June 5 at half-past 1, and July 3 at 2, London: Off. Ass. Lee; Sol. Stevens, 6, Queen-street, Cheapside, London.—Pet. f. May 21.

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**ROBERT LUKE TYLER**, Spalding, Lincolnshire, wine merchant, June 14 and July 5 at 11, Nottingham: Off. Ass. Harris; Sols. Brown & Son, Lincoln.—Pet. d. May 22.

**ALFRED ROBBINS**, Newport, Monmouthshire, builder, June 5 and July 3 at 11, Bristol: Off. Ass. Miller; Sols. Blakey, Newport; Henderson, Bristol.—Pet. f. May 23.

**THOMAS WINWOOD**, Neath, Glamorganshire, grocer, June 5 and July 3 at 11, Bristol: Off. Ass. Miller; Sols. Brittan & Sons, Bristol.—Pet. f. May 9.

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## MEETINGS.

**John H. Cohn**, Riches-court, Lime-street, City, East India merchant, June 13 at 12, London, last ex.—**Thomas Mur-rella**, Brighton, Sussex, stationer, June 14 at 12, London, aud. ac.—**Matthew White**, Finsbury-square, Middlesex, merchant, June 15 at 11, London, aud. ac.—**Mier Benrimo** and **James Picciotto**, New Broad-street, City, merchants, June 12 at 2, London, aud. ac.—**James S. Spencer**, Great Russell-street, Bloomsbury, Middlesex, wine merchant, June 12 at half-past 1, London, aud. ac.—**John W. Yell**, Walworth-place, Walworth, Surrey, tailor, June 6 at 11, London, aud. ac.—**Henry Strange**, Newent, Gloucestershire, plumber, June 14 at 11, Bristol, aud. ac.—**Hansell Bailey**, Cheltenham, Gloucestershire, cabinet maker, June 14 at 11, Bristol, aud. ac.; June 21 at 11, div.—**Edward E. Hill**, Liverpool, merchant, June 18 at 11, Liverpool, aud. ac.; June 19 at 11, div.—**J. Langdale**, Liverpool, laceman, June 4 at 11, Liverpool, aud. ac.—**C. L. Wrenshall**, Birkenhead, Cheshire, mu-

sical teacher, June 7 at 11, Liverpool, aud. ac.—**W. Cole**, Birkenhead, Cheshire, estate agent, June 4 at 11, Liverpool, aud. ac.—**Thomas Turner** and **Thomas Turner** the younger, Liverpool, cordwalners, June 7 at 11, Liverpool, aud. ac.—**John Collins**, Liverpool, flour dealer, June 7 at 11, Liverpool, aud. ac.—**Thomas Lilley**, North Shields, Northumberland, merchant tailor, June 6 at 12, Newcastle-upon-Tyne, aud. ac.—**James Scott**, Tweedmouth, Berwick-upon-Tweed, millwright, June 6 at half-past 12, Newcastle-upon-Tyne, aud. ac.—**Richard G. Beesley**, Manchester, cotton spinner, June 8 at 12, Manchester, aud. ac.; June 15 at 12, div.—**William Ellis** the elder, Nottingham, and Atherstone, Warwickshire, and **William Ellis** the younger, Atherstone, scale-board manufacturers, June 6 at 11, Birmingham, aud. ac.—**Joseph Varley**, King's Mill, near Huddersfield, Yorkshire, yarn spinner, June 25 at 11, Leeds, aud. ac.—**Wm. Hoyle** the younger, Holmfirth, Yorkshire, cloth manufacturer, June 25 at 11, Leeds, aud. ac.—**Thomas Holgate**, Bradford, Yorkshire, grocer, June 25 at 11, Leeds, aud. ac. and div.—**John Craven** and **Thomas Craven**, Rothwell, Yorkshire, glue makers, June 25 at 11, Leeds, aud. ac. and div.—**Joseph Kershaw** and **Wm. G. Kershaw**, Wakefield, Yorkshire, stonemasons, June 7 at 11, Leeds, aud. ac. joint and sep. est.—**John Lyons**, Sheffield, Yorkshire, steel manufacturer, June 9 at 10, Sheffield, aud. ac.—**Joseph Varty**, St. Paul's Churchyard, City, merchant, June 18 at 11, London, div.—**Charles Stevenson**, Howley-place, Paddington, Middlesex, builder, June 18 at 2, London, div.—**John Wright**, Northampton, coal merchant, June 18 at 2, London, div.—**William Springbett** and **Thomas Springbett**, Loaden-hall-street, City, and Charlotte-row, Walworth-road, Surrey, wine merchants, June 18 at 1, London, div.—**Michael John Stone**, Abingdon, Berkshire, grocer, June 18 at 1, London, div.—**Thomas Sneezum**, Rupert-street, Coventry-street, Middlesex, builder, June 18 at 12, London, div.—**William Hannis Taylor**, Piccadilly, Middlesex, stove manufacturer, June 18 at 11, London, div.—**Robert Dennis White** and **John Gregory**, Haymarket, Middlesex, East India army agents, June 16 at 12, London, div.—**Edward Sineon Meyer** and **Thomas George Brownsmith**, Bedford-street, Covent-garden, Middlesex, fringe manufacturers, June 16 at 1, London, div. sep. est. of **E. S. Meyer**.—**Richard Millar** the younger and **Edoard Lamburn Munns**, Primrose-street, Bishopsgate, City, wholesale oilmen, June 16 at 12, London, div.

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THE JURIST.

LONDON, JUNE 2, 1860.

OUR common law, which grew up in times when juries possessed none of the intelligence they do now, whether from literature, or from observation of mankind, and the continual mixing with their fellow-citizens, found it necessary, by rules of its own, to protect them from being imposed upon by the cunning and falsehood of more designing and artful men; and thus witnesses were rendered incompetent to give any testimony in certain cases, because the tribunal before which they came knew not how to attach the proper weight to the testimony they could and ought to have been permitted to give. The character of juries is now changed from what it was when the rules of incompetency became established, and those reproaches upon judges, juries, and counsel have now gradually, but with great success in the working, been almost swept away. Now it is permitted to leave the circumstance that formerly created the incompetency, and shut out the testimony, to act as a weight in the scale which juries hold, light or heavy, as the case may demand. And surely, if the great object to which all rules of evidence ought to be directed be the discovery of truth, and if, in proportion as the means of inquiry and information are shut out, the discovery and enforcement of truth becomes more difficult, it ought to require powerful reasons to support the exclusion of any piece of testimony calculated to throw light on the subject-matter of the inquiry. And such is the opinion that has of late, but not till of late, gained a firm footing amongst lawyers; yet it is but by small and slow steps that they have been found willing to thrust aside the rules relating to incompetency of witnesses. Even now they cling

with tenacity to one of the last remnants of the old error; for whilst in civil matters a man's own or his wife's testimony for or against himself or her is weighed with care and attention, yet they say we must not, in a criminal matter, where a man is charged with an indictable offence, or one punishable with summary conviction, hear him or her; so far rather we must grope about in the dark.

It was a proposition of Mr. Bentham's, that "in the character of objections to competency no objections ought to be allowed." (1 Rat. Jud. Ev. 3). And that principle has been acted upon, and to a great extent, and with complete success, carried out by Lord Denman, Lord Brougham, and the County Court Acts; but there remains the relic of the common law that we have mentioned above. The first thing that strikes a reflective person is the quaint limitation of the rule to the two cases mentioned; and this serves to point out how it has outlived its day, and how much out of harmony it is with the present spirit of the law. But why should not a man accused, under the circumstances in the rule, be allowed to afford his own testimony on oath, and exculpate himself, if his evidence appears to be trustworthy? Because, it is said, his interest in the result is so strong that he will not scruple to commit perjury to get himself acquitted. But if it is true that human nature cannot, in all instances, withstand such temptation, and cannot be relied on under such circumstances, the jury will do well to watch narrowly such evidence, and give it its proper weight; whilst it must necessarily render the course of justice less satisfactory, if, when the mouths of persons innocent, and who may be above such temptation, are completely closed, all that a preconceived theory for the prosecution, and the bias of the accuser's mind, can throw down against him, is fully listened to. If the account



of the accused is trustworthy, the jury have a satisfaction in acquitting him that they do not now feel; and if not trustworthy, the ends of justice and the public welfare are the better attained, for then the whole case is fairly before the jury, while now but one side is. So that, so far as the interests of the public are concerned, there appears to be no fear of the result. But then, looking at the question as it affects the prisoner, it is said such a temptation ought not to be held out to perjury. But the same persons who object this approve of the changes which have already taken place on the subject of incompetency, and admit, that if a person's whole property is at stake, he may give evidence for himself, though he is a defendant. Does the loss of liberty, and that of all a man possesses of property, make so great a difference that a man may be trusted on oath in the latter instance, though not in the former? Yet a verdict against him in the latter may equally lead to loss of liberty. A defendant in a quit tam action for a penalty, though of a penal nature, and involving loss of character and property, may with safety be heard; and yet the same man's oath is not to be received if the offence he had committed were indictable, or punishable by summary conviction. And, indeed, such appears to be the state of the law, that a defendant in any suit or proceeding under any act relating to the *customs* has his mouth closed, but if it happen to be a proceeding against him for infringing the *excise* laws he may be heard. It is evident that there can be nothing sound in that objection. But then it is said it would be inquisitorial—it is repugnant to our law to make or offer facilities to a man to criminate himself. Now, in the first place, the supposition is not that he will criminate, but that he may exculpate, himself. In the next place, it is not advocated that he should be *compelled* to suffer an examination, but only that it may be competent for him to tender himself as evidence. To which it is replied, the mere refusal to tender himself will bear so hardly against him, that it would of itself almost convict him. But if it did bear so hardly against him, it would do so but as a piece of evidence—an element in the case which would have the greater or less weight, according to the circumstances. The rules, too, of evidence were not made to screen the accused, but to ascertain the truth of the matter. The deliberate conduct of an accused person, viewed as a matter of fact, is one that should weigh considerably with a person inquiring into the charge; and even has been held to be of such force as to amount to an irrebuttable presumption of law. (Co. Litt. 373. b.) So that, on the whole, it seems to us that no injury would be done to an innocent man, but an additional facility would be given him of clearing up an accusation made rashly, and to be repelled only by the explanation that he or his wife might be able to depose on oath to. And this brings us to another branch of this rule of exclusion, which precludes husbands and wives from giving testimony for or against each other in *any criminal proceeding*. The reasons for this rule are given in Hawk. P. C., book 2, c. 46, s. 67—"It seems agreed that husband and wife, being as one and the same person in affection and interest, can no more give evidence for one another, in any case whatsoever, than for themselves, and that regularly the one shall not be admitted to give evidence against the other, nor the examination of the one made use of against the other, by reason of the implacable dissension which might be caused by it, and the great danger of perjury from taking the oaths of persons under so great a bias, and the extreme hardship of the case."

Mr. Phillips, in the first volume of his work on Evidence, (p. 67, 10th ed.), adopts two of the reasons, and glances at the third; he says—"It is founded partly on their identity of interest, and partly on a principle of public policy, which deems it necessary to guard the

security and confidence of private life, even at the risk of an occasional failure of justice. They cannot be witnesses for each other, because their interests are absolutely the same; they are not witnesses against each other, because this is inconsistent with the relation of marriage, and the admission of such evidence would lead to disunion and unhappiness, and possibly to perjury." With regard to interest, the result in such a case would not affect her worldly interest, probably, nearer than the loss of all a man's property would affect his: her affection might not be greater than that of a daughter or a son, sister or brother, the evidence of all of whom is admissible.

Then, again, this rule is limited to lawful marriages, or to such as are innocent in the eye of our law; and it has been determined that a kept mistress was a competent witness for her protector, though she passed by his name, and appeared to the world as his wife, (*Batthews v. Galindo*, 4 Bing. 610); yet it cannot be denied that the interest and affection in that case might well be as strong as in the case of what the law deems a lawful marriage. It has, too, in nearly every case but this, been admitted by the Legislature that interest is no longer a ground of incompetency. But another reason is the disunion and unhappiness it would create in the marriage state, and public policy requires such to be carefully guarded. Now, in Hawkins' Pleas of the Crown, in support of the proposition laid down in sect. 67, he states in sect. 69, "So, where a settlement was claimed by a person as the wife of J. W., and after proof of a marriage in fact, the wife of J. W. was called to prove a previous marriage to her, the wife was rejected as an incompetent witness, because her evidence went to criminate her husband. (*Res v. Chirgin*, 2 T. R. 263)." In sect. 70 it is said, "So, if a husband be charged with having concealed his effects as a bankrupt, contrary to the 5 Geo. 2, c. 30, his wife cannot be examined as to anything that may tend to criminate him." In sect. 71 it is stated, "So, also, it seems that in questions between other parties the evidence of a wife shall not be admitted if it directly tend to charge or criminate her husband, but she may give evidence touching his estate. (*Hill v. Hill*, 2 Str. 1092)." These cases no doubt proceed on the ground that the peace of families is to be upheld, even to the protection of a criminal; but this position is destroyed by the fact that those cases are overruled. Thus, in a question respecting a female pauper's settlement, where a man testified that he was married to the pauper, another woman was admitted to prove her own previous marriage with the same man. (*Res v. Bathwick*, 2 B. & Ad. 639; *Res v. All Saints, Worcester*, 6 Mau. & S. 194). So, in an action by the indorsee against the acceptor of a bill of exchange, the wife of the drawer, on the trial, proved that he had forged the bill; and the Court above did not disapprove of the reception of the evidence, but supported the verdict on other grounds.

And again, by the 12 & 13 Vict. c. 106, s. 118, the wife of a bankrupt may be compelled to discover the estate and effects of her husband. Either, then, the peace of families, it is supposed, is not disturbed in the cases last put—and if that be true, we should be inclined to dispute the proposition that it would be so in the one we are now discussing—or the preservation of the peace of families is not the ground of the rule of incompetency in such cases. As to any bias that may be in the wife's mind, that is a subject that is now generally admitted to be grappled with by the jury, counsel, and judge.

No doubt justice is generally done under the present system, but a case sometimes occurs which clearly demonstrates, that at all events it would be more satisfactory for the tribunal that dispenses it to have the benefit of the testimony which is now excluded by the rules we have been discussing.



## Correspondence.

TO THE EDITOR OF "THE JURIST."

SIR,—The question, whether it is of any use to attempt to diminish the length of deeds and wills by any direct legislation, is one on which a difference of opinion may well be entertained; still, as the attempt is occasionally made, it is not unimportant to inquire what is the best method of doing so; and by way of contribution to such an inquiry, I beg the favour of a little space for a comment on your article (*ante*, p. 187) on Lord Cranworth's "Bill to give to Trustees, Mortgagees, and others certain Powers now commonly inserted in Settlements, Mortgages, and Wills."

I would submit that you have not done justice to this bill in saying that it is "founded on the same principle" as Lord Brougham's Short Forms Acts of 1845, (8 & 9 Vict. cc. 119, 124). The principle of those acts is to provide that certain specified short sentences shall be deemed to mean certain specified long sentences; the principle of Lord Cranworth's bill is to dispense with the necessity of inserting certain sentences at all, by altering the general law affecting the subject-matter of such sentences.

Let me illustrate the different methods by an example:—Suppose the object to be to get rid of the necessity of inserting in every settlement the usual power to appoint new trustees on the death or retirement of the original ones. Lord Brougham's method would be to enact that some symbolic form, say the word "Abracadabra," in a settlement, should mean, "Provided always, and it is hereby agreed and declared, that in case the said A. B. and C. D. should die," and so forth, inserting in his act the whole of the common form as found in the precedent books. Lord Cranworth's method (as illustrated in the 28th section of his bill) would be to provide (with the requisite details) that whenever any trustee dies or retires a successor may be appointed. There is a third possible method, of which Lord St. Leonards has given us a specimen in the 31st section of the 22 & 23 Vict. c. 35—to enact that every settlement shall be deemed to contain a clause in these words, "Provided always," &c., giving (like Lord Brougham) the words of the common form.

Now, it appears to me, that of these three methods Lord Cranworth's is clearly the most correct. The objections to Lord Brougham's are very serious. I need not make any addition to what you have said on the subject, for I do not think his acts have had a good word from anybody; and Lord St. Leonards' method is, at best, a clumsy one. But I confess I cannot see what objection in principle can be raised to putting the general law in such a state as to dispense with the necessity of inserting a variation of it by special stipulation in every deed and will that is drawn. You observe, that "it would be a great inconvenience to trustees to be compelled to have resort to an act of Parliament, not always accessible, to inform them what are their powers and duties, instead of finding them clearly defined within the four corners of the instrument under which they act;" but surely no legal system can be framed, or even conceived, which does not go on the assumption that the law is known to those who are affected by it; and the best state of the law of property, on a general view of the subject, must be that which requires the fewest supplemental arrangements between individuals in carrying on the common affairs of life. Besides, the *whole* of the powers and duties of trustees never are, and cannot be, inserted in wills and settlements; they must know the general law as it is; their own little code cannot be all.

The power of executors to sell the personal estate of their testators, and give a valid receipt for the purchase money, now belongs to them by the general law; would it be thought an improvement that that law should be

abrogated, and that special powers to the same effect should be inserted in every will? Yet if your observations are just, that would be an improvement, inasmuch as it would place more of the powers and duties of the executors "within the four corners of the instrument," and remove them from the general law, "not always accessible."

Recurring to my illustration of Lord Brougham's method, let me observe that it is strictly fair, and even favourable. His short forms, by hypothesis, do not mean the same thing as the long forms; for if they did, his acts would be unnecessary; and if a symbol is to be used, the concisest is the best; and one which has no intrinsic meaning is far preferable to one which has a meaning of its own, besides that conventionally assigned to it.

May 24, 1860.

M. I. B.

## BILL IN PROGRESS.

## COINAGE OFFENCES BILL.

*A Bill intitled "An Act to consolidate and amend the Statute Law of the United Kingdom against Offences relating to the Coin."*

Sect. 1. Interpretation clause.

2. Persons counterfeiting the gold or silver coin guilty of a felony in England and Ireland, and in Scotland a high crime and offence, and offender liable to be kept in penal servitude for life, or for any term not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

3. Colouring counterfeit coin or any pieces of metal with intent to make them pass for gold or silver coin, or colouring or altering genuine coin with intent to make it pass for a higher coin, a felony in England and Ireland, and in Scotland a high crime and offence, and offenders liable to the same punishment.

4. Impairing the gold or silver coin, with intent, &c., a felony in England and Ireland, and in Scotland a high crime and offence, and the offender liable to be kept in penal servitude for any term not exceeding fourteen years, and not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

5. Persons in unlawful possession of filings or clippings of gold or silver coin in England and Ireland guilty of felony, and in Scotland of a high crime and offence, and liable to be kept in penal servitude for any term not exceeding seven years, and not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

6. Persons buying or selling &c. counterfeit gold or silver coin for lower value than its denomination in England and Ireland guilty of felony, and in Scotland of a high crime and offence, and liable to be kept in penal servitude for life, or for any term not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement; and in any indictment for such offence it shall be sufficient to allege that the party did buy, sell, receive, pay, or put off, or did offer to buy, sell, receive, pay, or put off, the false or counterfeit coin at or for a lower rate or value than the same imports, or was apparently intended to import, without alleging at or for what rate, price, or value the same was bought, sold, received, paid, or put off, or offered to be bought, sold, received, paid, or put off.

7. Persons importing counterfeit coin from beyond the seas shall in England and Ireland be guilty of felony, and in Scotland of a high crime and offence, and be liable to the same punishment.

8. Persons exporting counterfeit coin shall in England and Ireland be guilty of a misdemeanour, and in Scotland of a crime and offence, and liable to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

9. Persons uttering counterfeit gold or silver coin shall in England and Ireland be guilty of a misdemeanour, and in Scotland of a crime and offence, and liable to be imprisoned

for any term not exceeding one year, with or without hard labour, and with or without solitary confinement.

10. Persons uttering, accompanied by possession of other counterfeit coin, or followed by a second uttering, shall in England and Ireland be guilty of a misdemeanour, and in Scotland of a crime and offence, and liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

11. Persons having three or more pieces of counterfeit gold or silver coin in possession, &c., with intent, &c., shall in England and Ireland be guilty of a misdemeanour, and in Scotland of a crime and offence, and liable, at the discretion of the court, to be imprisoned for any term not exceeding three years, with or without hard labour, and with or without solitary confinement.

12. Every second offence of uttering &c., after a previous conviction, shall be felony, and the offender shall in England and Ireland be guilty of felony, and in Scotland of a high crime and offence, and liable to be kept in penal servitude for life, or for any term not less than three years, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

13. Persons uttering foreign coins, medals, &c. as current coin, with intent to defraud, shall in England and Ireland be guilty of a misdemeanour, and in Scotland of a crime and offence, and liable to be imprisoned for any term not exceeding one year, with or without hard labour, and with or without solitary confinement.

14. Persons counterfeiting &c. copper coin shall in England and Ireland be guilty of felony, and in Scotland of a high crime and offence, and liable to be kept in penal servitude for any term not exceeding seven years, and not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

15. Persons uttering base copper coin shall in England and Ireland be guilty of a misdemeanour, and in Scotland of a crime and offence, and liable to be imprisoned for any term not exceeding one year, with or without hard labour, and with or without solitary confinement.

16. Persons defacing the coin by stamping words thereon shall in England and Ireland be guilty of a misdemeanour, and in Scotland of a crime and offence, and liable to be imprisoned for any term not exceeding one year, with or without hard labour.

17. No tender of such coin to be a legal tender, and persons tendering liable to forfeit and pay any sum not exceeding 40s.; no person to proceed for such penalty without the consent, in England or Ireland, of the Attorney-General, or in Scotland of the Lord Advocate.

18. Persons counterfeiting foreign gold and silver coin shall in England and Ireland be guilty of felony, and in Scotland of a high crime and offence, and liable to be kept in penal servitude for any term not exceeding seven years, and not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

19. Persons bringing such counterfeit coin into the United Kingdom shall in England and Ireland be guilty of felony, and in Scotland of a high crime and offence, and liable to the same punishment.

20. Persons tendering such coin knowing the same to be false shall in England and Ireland be guilty of a misdemeanour, and in Scotland of a crime and offence, and liable to be imprisoned for any term not exceeding six months, with or without hard labour.

21. And for a second offence shall in England and Ireland be guilty of a misdemeanour, and in Scotland of a crime and offence, and liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement; and for a third offence shall in England and Ireland be guilty of felony, and in Scotland of a high crime and offence, and liable to be kept in penal servitude for life, or for any term not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

22. Persons counterfeiting foreign coin other than gold and silver coin shall in England and Ireland be guilty of a misdemeanour, and in Scotland of a criminal offence, and liable

for the first offence to be imprisoned for any term not exceeding one year, and for the second offence to be kept in penal servitude for any term not exceeding seven years, and not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

23. Penalty of 40s. or imprisonment on persons having more than five pieces of such counterfeit foreign coin in their possession.

24. Persons making, mending, or having possession of any coining tools shall in England and Ireland be guilty of felony, and in Scotland of a high crime and offence, and liable to be kept in penal servitude for life, or for any term not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

25. Persons conveying tools or monies out of the Mint without authority shall in England and Ireland be guilty of felony, and in Scotland of a high crime and offence, and liable to the same punishment.

26. Coin suspected to be diminished or counterfeit may be cut by any person to whom it is tendered, and the person tendering the same shall bear the loss thereof; but if the same shall be of due weight, and shall appear to be lawful coin, the person cutting the same is required to receive the same at the rate it was coined for; disputes to be determined in a summary manner by a justice of the peace.

27. Provision for the discovery and seizure of counterfeit coin and coining tools, for securing them as evidence, and for ultimately disposing of them.

28. This is a provision as to where venue is to be laid where uttering base coin occurs in two counties.

29. Upon the trial of a person charged with any offence against this act, it shall not be necessary to prove the same to be false and counterfeit by the evidence of any moneyer, or other officer of her Majesty's Mint, but it shall be sufficient to prove the same to be false or counterfeit by the evidence of any other credible witness.

30. The offence of counterfeiting coin shall be deemed to be complete, although the coin shall not be finished or perfected.

31. Any person may apprehend any person committing any indictable offence against this act.

32. No conviction for any offence punishable on summary conviction under this act shall be quashed for want of form, or be removed by certiorari; and no warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party had been convicted, and there be a valid conviction to sustain the same.

33. All actions to be commenced against any person for anything done in pursuance of this act shall in England or Ireland be tried in the county where the fact was committed, and in England, Ireland, or Scotland be commenced within six months after the fact committed, and not otherwise; and notice in writing of such action, and of the cause thereof, shall be given to the defendant or defender one month at least before the commencement of the action; and in any such action brought in England the defendant may plead the general issue, and give this act and the special matter in evidence, at any trial to be had thereupon, and in Scotland the defender may insist on all relevant defences; and no plaintiff or pursuer shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into court after such action brought, by or on behalf of the defendant or defender; and if, in England or Ireland, a verdict shall pass for the defendant, or the plaintiff shall become nonsuit, or discontinue any such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, or if, in Scotland, the verdict shall be for the defender, or if the pursuer shall abandon the action, or the court shall dismiss it as irrelevant or improperly laid, in every such case the defendant or defender shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant or defender has by law in other cases; and though a verdict shall be given for the plaintiff or pursuer in any such action, such plaintiff or pursuer shall not have costs against the defendant or defender unless the judge before whom the trial shall be shall certify his approbation of the action.

34. All offences against this act which may be committed

in Scotland shall be tried according to the procedure of the criminal law of Scotland.

35. In the case of felony under the act every principal in the second degree, and every accessory before the fact, shall be punishable in the same manner as the principal in the first degree; and every accessory after the fact to any felony punishable under this act shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour.

36. Offences committed at sea, within the jurisdiction of the Admiralty of England or Ireland, shall be liable to the same punishments as if they had been committed upon the land in England or Ireland, and may be determined in any county or place in England or Ireland in which the offender shall be apprehended, and in any indictment the venue in the margin shall be the same as if such offence had been committed in such county or place, and the offence itself shall be averred to have been committed "on the high seas."

37. It shall be sufficient in any indictment for a second offence to state the substance and effect only (omitting the formal part) of the indictment and conviction for the previous offence; and a certificate of the indictment and conviction for the previous offence, signed by the clerk of the court or other officer, shall be sufficient evidence of the previous conviction, and for every such certificate a fee of 6s. 8d. shall be paid.

38. When a person is convicted of an indictable misdemeanour, the court may, in addition to or in lieu of the punishments by this act authorised, fine the offender, and require him to find sureties for keeping the peace and being of good behaviour, and in cases of felony, require the offender to find sureties for keeping the peace, in addition to any punishment by this act authorised.

39. Whenever imprisonment, with or without hard labour, may be awarded for any indictable offence under this act, the court may sentence the offender to be imprisoned, or to be imprisoned and kept to hard labour, in the common gaol or house of correction.

40. Whenever solitary confinement may be awarded for any offence under this act, the court may direct the offender to be kept in solitary confinement for any portion or portions of his imprisonment, or of his imprisonment with hard labour, not exceeding one month at any one time, and not exceeding three months in any one year.

41. Summary proceedings in England may be under the 11 & 12 Vict. c. 43, and in Ireland under the 14 & 15 Vict. c. 93, except in London and the metropolitan police district.

42. In all prosecutions in England, conducted by the Solicitors of the Treasury, the court shall allow the expenses of the prosecution; and in all prosecutions in England which shall not be so conducted, the court, upon conviction, but not otherwise, shall allow the expenses of the prosecution.

43. Act to commence on the 1st January, 1861.

## TUESDAY, May 29.

### BANKRUPTS.

RICHARD BARNES, Norwich, shoe manufacturer, June 9 at 11, and July 6 at half-past 1, London: Off. Ass. Whitmore; Sols. Miller & Co., Norwich; Sole & Co., 68, Aldermanbury, London.—Pet. f. May 23.

JAMES ALFRED AXTELL, WILLIAM RUDD KNIGHTS, and WILLIAM AXTELL, White's-ground, Bermondsey, Surrey, and St. Neots, Huntingdonshire, tanners, June 8 at half-past 12, and July 12 at 12, London: Off. Ass. Bell; Sol. Fitch, Union-street, Southwark.—Pet. f. May 19.

EDWIN BROOK, Charsfield, Suffolk, cattle dealer, June 6 at 2, and July 4 at 1, London: Off. Ass. Stansfeld; Sols. Wood, Woodbridge; Kingsford & Dormer, 23, Essex-street, Strand, London.—Pet. f. May 16.

TIMOTHY SPENCER, Woolwich, Kent, tailor, June 8 at half-past 1, and July 4 at 2, London: Off. Ass. Stansfeld; Sol. Taylor, 19, Old Burlington-st., London.—Pet. f. May 28.

EDWARD WORTLEY, Willeeden, Middlesex, builder, June 11 at half-past 12, and July 16 at 1, London: Off. Ass. Pennell; Sols. Roche & Gover, 33, Old Jewry, London.—Pet. f. May 25.

CHARLES ROACH, Devizes, Wiltshire, hosier, June 11 and July 10 at 11, Bristol: Off. Ass. Acraman; Sols. Whittington & Gribble, Bristol; Davidson & Co., Basinghall-street, London.—Pet. f. May 22.

HENRY EDWARDS, Birmingham, merchant, June 9 and July 7 at 11, Birmingham: Off. Ass. Kiuneur; Sol. Suckling, Birmingham.—Pet. d. May 26.

JOHN WILLIAMS, Cardiff, Glamorganshire, draper, June 12 and July 10 at 11, Bristol: Off. Ass. Miller; Sols. Bevan & Co., Bristol.—Pet. f. May 21.

JOHN HYNDHAM, Newport, Monmouthshire, beer merchant, June 12 and July 10 at 11, Bristol: Off. Ass. Acraman; Sols. Abbot & Co., Bristol.—Pet. f. May 19.

WILLIAM LONG, Newport, Monmouthshire, innkeeper, June 18 and July 17 at 11, Bristol: Off. Ass. Acraman; Sols. King & Plummer, Bristol.—Pet. f. May 22.

WILLIAM TYSON, Liverpool, flour dealer, June 11 and July 6 at 11, Liverpool: Off. Ass. Cazenove; Sol. Toulmin, Liverpool.—Pet. f. May 17.

JOHN WELLINGTON WELCH, Manchester, warp sizer, June 21 and July 12 at 12, Manchester: Off. Ass. Pott; Sols. Sale & Co., Manchester.—Pet. f. April 26.

PETER WILLIAMSON the younger, Salford, Lancashire, grocer, June 13 and July 11 at 12, Manchester: Off. Ass. Pott; Sol. Sutton, Manchester.—Pet. f. May 23.

### MEETINGS.

Robert James Brown, Sunderland, Durham, timber merchant, June 19 at 12, Newcastle-upon-Tyne, pr. d.—Fred. Saldort, Plymouth, Devonshire, corn factor, June 4 at half-past 12, Plymouth, pr. d.—George Price Simcox, Manchester, carpet manufacturer, June 8 at 12, Manchester, ch. ass.—George Cuckow, Woodbridge, Suffolk, grocer, June 11 at 1, London, last ex.—Elizabeth Aydon and Thomas William Ferguson, Newcastle-upon-Tyne, grocers, June 11 at 12, Newcastle-upon-Tyne, last ex.; at half-past 12, aud. ac.; June 19 at 11, div.—James Steven, Newcastle-upon-Tyne, hatter, June 5 at 12, Newcastle-upon-Tyne, last ex.; June 20 at 11, div.—Miles Beale, Gray-street, Poplar, Middlesex, ironfounder, June 12 at 11, London, aud. ac.; June 19 at 12, div.—John Peter George Smith, Liverpool, banker, June 19 at 11, Liverpool, aud. ac.; June 25 at 11, div.—Geo. Eltoft, Bradford, Yorkshire, draper, June 25 at 11, Leeds, aud. ac. and div.—Menahem Levy Bensusan, Samuel Levy Bensusan, Jacob Levy Bensusan, and Joshua Levy Bensusan, Magdalen-row, Great Prescott-street, Goodman's-fields, Middlesex, merchants, June 20 at 11, London, fin. div.—Alex. Levi Newton, Bury-street, St. Mary Axe, City, merchant, June 20 at half-past 11, London, fin. div.—Richard Bedford Allen, Lloyd's Coffee-house, City, and Walthamstow, Essex, insurance broker, June 21 at half-past 11, London, div.—Arthur Edward Windus, Aldermanbury, City, scarf manufacturer, June 20 at 12, London, div.—Edward Morgan, Cheapside, City, wholesale stationer, June 20 at 1, London, fin. div.—George Fossey and James Steel, Millwall, Middlesex, timber merchants, June 20 at half-past 12, London, fin. div.—Nathaniel Phillips, Haverfordwest, banker, June 21 at 11, Bristol, fin. div.—Henry Smart, Gloucester, printer, June 21 at 11, Bristol, div.—Thomas Hill, Liverpool, broker, June 19 at 11, Liverpool, div.—John P. G. Smith, Liverpool, banker, June 25 at 11, Liverpool, div.—T. Lightfoot, Sunderland, Durham, shipbuilder, June 20 at half-past 12, Newcastle-upon-Tyne, div.—Richard Morrison, Carlisle, Cumberland, guano dealer, June 20 at half-past 11, Newcastle-upon-Tyne, fin. div.—Joseph Haley and Wm. Thomason, Manchester, cotton manufacturers, June 21 at 12, Manchester, div. joint est., and div. sep. est. of William Thomason.

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To be allowed, unless Cause be shown to the contrary on or before the Day of Meeting.

William Miller, Gothic Hall, Broadway, Deptford, Kent, lodging-house keeper, June 21 at 11, London.—Henry Pike, Newcastle-place, Edgware-road, Middlesex, tailor, June 20 at half-past 1, London.—Henry Zeltner and Joseph Shiers, Manchester, fancy trimming manufacturers, June 21 at 12, Manchester.—John Mountford, Stoke-upon-Trent, Staffordshire, Parian manufacturer, June 25 at 11, Birmingham.—Wm. Marrie, Nottingham, draper, June 26 at half-past 11, Nottingham.—Jackson Southward, Liverpool, printer, June 19 at 11, Liverpool.—George Richardson, Huddersfield, Yorkshire, cloth merchant, July 2 at 11, Leeds.

To be granted, unless an Appeal be duly entered.

John Mintorn the younger, New Bond-street, Middlesex, manufacturer of materials for wax flowers.—J. Roe, Southtown, Suffolk, merchant.—Thomas W. Hopkins, King's-road, Chelsea, Middlesex, hosier.

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## GAZETTES.—FRIDAY, June 1.

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**WILLIAM FENN**, New Broad-st., late of Lloyd's Coffee-house, City, underwriter, June 14 at 12, and July 12 at 1, London: Off. Ass. Johnson; Sols. J. & J. H. Linklater & Co., Walbrook.—Pet. f. May 30.

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**SAMUEL LANGFORD**, Myddleton-st., Clerkenwell, Middlesex, leather seller, June 12 at half-past 2, and July 17 at 1, London: Off. Ass. Lee; Sol. Keighley, 7, Ironmonger-lane, London.—Pet. f. May 31.

**THOMAS PALMER**, Wellesbourne, Warwickshire, maltster, June 11 and July 9 at 11, Birmingham: Off. Ass. Whitmore; Sols. Newsam, Warwick; James & Knight, Birmingham.—Pet. d. May 28.

**JOHN PLIMLEY EDWARDS**, Birmingham, merchant, June 14 and July 27 at 11, Birmingham: Off. Ass. Whitmore; Sol. Suckling, Birmingham.—Pet. d. May 22.

**DANIEL SWIFT**, Deeping St. James, Lincolnshire, butcher, June 14 and July 5 at 11, Nottingham: Off. Ass. Harris; Sols. Bowley & Ashwell, Nottingham.—Pet. d. May 12.

**ALFRED WALE**, Nottingham, hosier, June 12 and July 3 at half-past 11, Nottingham: Off. Ass. Harris; Sol. Wells, Nottingham.—Pet. d. May 31.

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**KERSHAW NOBLE**, Ambler Thorn, Northowram, Halifax, Yorkshire, joiner, June 12 and July 9 at 11, Leeds: Off. Ass. Hope; Sols. Wavell & Co., Halifax; Bond & Barwick, Leeds.—Pet. d. May 29.

**ADAM GIBSON**, Liverpool, factor, June 11 and July 6 at 12, Liverpool: Off. Ass. Bird; Sols. Aspinall & Bird, Liverpool.—Pet. f. May 28.

**JAMES KIRK and GEORGE RAYNER**, Manchester, silk manufacturers, June 21 and July 12 at 12, Manchester: Off. Ass. Hernaman; Sol. Boote, Manchester.—Pet. f. May 25.

## MEETINGS.

**Matthew Shield**, Great Queen-street, Westminster, Middlesex, shipowner, June 13 at 12, London, pr. d.—**John W. Bevil**, Cheltenham, Gloucestershire, tobaccoist, June 30 at 2, London, ch. ass.—**John W. Jones and S. Dittrichstein**, Great St. Thomas Apostle, City, merchants, June 13 at half-past 2, London, last ex.—**John Allen**, Deptford, Kent, and Grey Eagle-street, Spitalfields, Middlesex, shoe manufacturer, June 13 at 11, London, last ex.—**James Ormesher and Wm. Ormesher**, Manchester and Blackley, Lancashire, silk manufacturers, June 13 at 12, Manchester, last ex.—**Charles R. Moate**, Old Broad-street, City, metal broker, June 13 at 11, London, aud. ac.—**Henry Joseph Smith**, Newbury, Berkshire, corndealer, June 15 at half-past 11, London, aud. ac.; June 22 at half-past 11, div.—**John Perkins**, Oakham, Rutlandshire, haberdasher, June 16 at 11, London, aud. ac.—**W. H. Unwin and J. Greenwood**, Henry-street, Limehouse, builders, June 16 at 1, London, aud. ac.—**Isaac James Hadwen and James L. M'Gregor**, Liverpool, and Havannah, Island of Cuba, merchants, June 19 at 11, Liverpool, aud. ac.; June 25 at 11, div. sep. est. of **Isaac James Hadwen**.—**Thos. T. Rigby**, Runcorn, Cheshire, merchant, June 12 at 11, Liverpool, aud. ac.—**S. Davidson and A. Kanter**, St. Mary Axe, City, general merchants, June 22 at 11, London, div.—**Wm. Jackson**, Brewer-street, Somers-town, St. Pancras, surgeon, June 22 at 12, London, div.—**Joseph Chas. Ball**, Salisbury, Wiltshire, miller, June 22 at half-past 11, London, div.—**Thomas Selby and Silas Norton**, Town Mailing, Kent, scribes, June 22 at 11, London, div.—**John L. Morton**, Finch-lane, City, merchant, June 22 at 11, London, div.—**J. Davis**, Skinner's-place, Leadenhall-market, City, poulterer, June 22 at half-past 11, London, div.—**James Elgar**, Fletton, Huntingdonshire, wholesale grocer, June 22 at 1, London, div.—**Henry Freeman and Chas. Chartier**, Cheapside, City, licensed victuallers, June 23 at 11, London, div.—**Thomas Boyden and Joseph E. Mansford**, Cullum-street,

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## PARTNERSHIP DISSOLVED.

**William Charles Cripps and George Palmer Clarkson**, Tanbridge Wells, Kent, attornies-at-law and solicitors.

## SCOTCH SEQUESTRATIONS.

**William Fairweather**, deceased, Balluderon, Tealing, Dumfrieshire.—**Alexander Kinloch**, Alexandria, Bonhill, Dumfrieshire, carter.—**James Hay**, Glasgow, builder.—**Merry, M'Gregor, & Co.**, Kilmarnock, shawl printers.—**Joseph Holmes Wilson**, Ardrossan, ship-store dealer.—**James Ferguson**, Dumfries, grocer.—**James Adam**, Dundee, chronometer maker.—**John Blaikie**, Aberdeen, advocate.—**Robert Marshall**, Renfrew, coal merchant.—**John Mitchell & Co.**, Glasgow, distillers.—**John Lockhart**, Wishaw, Cambusethan, Lanarkshire, carrier.—**James Petrie**, Auchinblae, For-doun, farmer.—**James Norwell & Son**, Glasgow, auctioneers.—**Alexander Wilson**, Kilncadzow, Carluke, Lanarkshire, cattle dealer.—**George King**, Edinburgh, wine merchant.—**James Paul**, Dundee, commission agent.—**James Kilgour**, Dundee, baker.—**Daniel Dorning**, Glasgow, steam-boat steward.—**John Maclean**, Murraygate, Dundee, spirit merchant.

## TUESDAY, June 5.

## BANKRUPTS.

**THOMAS TOYNBEE**, Southwick-street, Hyde-park, Middlesex, hotel keeper, June 15 at 12, and July 13 at 11, London: Off. Ass. Canner; Sol. Empson, 61, Moorgate-street, London.—Pet. f. June 4.

**WILLIAM BAYLEY** the younger and **RICHARD BOWDEN NEWSOM**, White Lion-st., Pentonville, goldbeaters, and Rosemary Branch Wharf, Hoxton, Middlesex, woodcutters, June 19 at half-past 12, and July 17 at 2, London: Off. Ass. Edwards; Sol. Chidley, Basinghall-street.—Pet. f. May 29.

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THE JURIST.

LONDON, JUNE 9, 1860.

A CORRESPONDENT in our last week's number thinks that we have not done justice to Lord Cranworth's "Bill to give to Trustees, Mortgagees, and others, certain Powers now commonly inserted in Settlements, Mortgages, and Wills," inasmuch as we have said that it is founded on the same principle as Lord Brougham's Short Forms Acts of 1845, (8 & 9 Vict. cc. 119, 124). Our correspondent observes, that "the principle of those acts is to provide that certain specified short sentences shall be deemed to mean certain specified long sentences;" whereas "the principle of Lord Cranworth's bill is to dispense with the necessity of inserting certain sentences at all, by altering the general law affecting the subject-matter of such sentences."

Our learned correspondent agrees with us in considering Lord Brougham's bills as open to serious objections; he characterises them as enacting that some symbolic form, such as the cabalistic term "Abracadabra," shall mean the same as some particular legal form. He does not approve of Lord St. Leonards' mode of enacting that a settlement shall be deemed to contain certain legal forms, but he considers the method of Lord Cranworth as being "clearly the most correct," inasmuch as he cannot see "what objection in principle can be raised to putting the general law in such a state as to dispense with the necessity of inserting a variation of it by special stipulation in every deed and will that is drawn."

Now, does our learned correspondent give a correct description of the principle of Lord Cranworth's bill, or at any rate of the whole of it? We think not.

It is true that the preamble of the bill recites, that

"it is expedient that certain powers and provisions, which it is now usual to insert in settlements, mortgages, wills, and other instruments, should be made incident to the estates of the persons interested, so as to dispense with the necessity of inserting the same in terms in every such instrument."

This preamble, however, is not strictly accurate if applied to every part of the bill, and we presume that reliance upon it must have misled our correspondent.

Turn to the 1st section of the bill, which enacts, that "in all cases where, by any will, deed, or other instrument of settlement, it is expressly declared, or manifestly intended, that the trustees, or other persons therein named or indicated, shall have a power of sale, either generally, or in any particular event, over any hereditaments," then they may sell as is therein mentioned, shall have powers of exchange, powers to enfranchise copyholds, powers to grant licenses to copyhold or customary tenants to build or improve, make roads, &c., to pull down buildings, and, for the purpose of building or improvement, to grant leases for ninety-nine years in possession.

Now, here, Lord Cranworth most undoubtedly has resort to the principle of Lord Brougham's bills. Lord Cranworth's "Abracadabra" is the express declaration, or manifest intention, that a person shall have a power of sale, by which a person is to have power to do many other things besides effect a sale.

This is open to the objection so forcibly put by our correspondent to Lord Brougham's bills, and of every short form contained in them—"of having a meaning of its own, besides that conventionally assigned to it."

On a closer examination, moreover, of the first part of the bill, it appears to be open to serious objections. In the first place, great doubts, and consequently litigation, would arise in determining when it "is mani-



*festly intended*" that a person should have a power of sale. This will be clear to any one who has considered the large number of cases which have been decided upon the question as to when it was the manifest intention of a testator to exonerate his general personal estate from its primary liability to the payment of debts. And assuming for the present that all persons who give a power to trustees to sell an estate should also wish that they should have the additional powers conferred by Lord Cranworth's bill, (perhaps upon the principle of the maxim, "*omne majus continet in se minus*"), still it by no means follows, because a person may devise an estate, with a power to sell "*in a particular event*," that he wishes the donees of the power should have power, whether that event took place or not, to exchange, enfranchise, and grant licenses such as we have mentioned, and leases for ninety-nine years. We believe that in many cases the intentions of testators might be entirely defeated by the first part of Lord Cranworth's bill.

Suppose, for instance, a person devised an estate to his son (an infant) for life, and in the event of his dying without issue under twenty-one, to his daughters (also infants) as tenants in common in tail, with cross remainders between or amongst them, with a power of sale to the trustees in "*a particular event*," viz. the death of the son under twenty-one. Now, in such a case as this put, we believe, that according to Lord Cranworth's bill, the trustees, *during the minority of the son, and before the power of sale had arisen*, could exchange the hereditaments for others in England or Ireland, or, in the case of copyhold lands, demise the whole for ninety-nine years, although the intention of the testator may have been that his son should occupy the land. The 11th section of the bill is conceived in such confused and obscure terms as to be almost, if not quite, unintelligible, and loudly demands either amendment or obliteration.

The second part of the bill comes within the principle claimed by our correspondent for the whole, viz. sects. 12 to 25 inclusive, which render powers of sale, to insure and keep insured, and to appoint or obtain the appointment of a receiver, incidental to mortgages, on non-payment by the mortgagor of principal, interest, or premiums of insurance, at certain periods.

This, doubtless, is the best part of the bill; it is open, however, to the objection, that persons not aware of the passing of the act (and who, except by a fiction of law, can be presumed to be acquainted with the still undigested and still increasing Statute-book) may find that they have allowed the mortgagee to have powers which they never intended he should possess.

With regard to the third part of the bill, the 26th section, giving trustees certain powers of investment, is of no great consequence. By the 28th section, trustees of property held in trust for an infant, either absolutely, or contingently on his attaining the age of twenty-one years, or on the occurrence of any event previously to his attaining that age, are to have power, *at their sole discretion*, to apply the income for his maintenance, and to accumulate the residue, &c. Whether it is advisable that trustees should have such power given to them by the Legislature, to be exercised at the expense of the infant's property, independently of the fact that

another person has both the means, and is bound by law to maintain him, may, we think, very fairly be doubted.

The provisions for the appointment of new trustees in certain cases may, perhaps, in some cases, supply an untoward omission, (sects. 28, 29); and we think that the power of trustees to give receipts, (sect. 30), and to executors to accept compositions, to compromise, submit matters to arbitration, &c., (sect. 31), may in some cases be useful. We think, however, that great difficulties would arise from the 33rd section of the bill.

We believe, however, in most cases, as we have said on a former occasion, (except, perhaps, in mortgage deeds affecting small properties), the powers and incidents given or created by the bill will, if it becomes the law of the land, be negated by express declaration.

In the absence of such declaration, if in any instrument the ordinary number of powers are inserted, many difficulties of construction will arise from the latter part of the 33rd section, which enacts, "that where there is no such express declaration, then, if any variations or limitations of any of the powers or incidents thereby conferred or annexed were contained in a deed, will, or instrument, such powers should be exercisable, or should take effect, only *subject to such variations or limitations*."

We still retain, notwithstanding the ingenious arguments of our correspondent, the opinion which we expressed in a former number, that, if the whole bill is carried, much more evil is likely to result from it than good, and that the small saving which may be effected in some few cases will be more than counterbalanced by expensive litigation occasioned in others.

#### LAW AMENDMENT SOCIETY.

The following is the Report of the Special Committee on Scientific Evidence in Courts of Law:—

The committee appointed to consider the best mode of taking scientific evidence in courts of law, after having given their attention to the subject generally, and to the different schemes that have been proposed for remedying the evils now complained of, have to report as follows:—

What has been called "*scientific evidence*" is only a branch of that great division of evidence admissible in certain cases by our law, which consists of the opinions of witnesses on matters to which their attention has been specially devoted. To this head belongs the evidence of surveyors with regard to the condition of a house, and of veterinary surgeons, or other skilled persons, touching the soundness or unsoundness of a horse, no less than that of a chemist or mechanical philosopher with respect to the operation of the most important laws of nature. To prove that two pieces of cloth are the produce of the same loom, or two samples of wine are taken from the same bin, the opinion of a clothier or wine merchant may be submitted to a jury, precisely in the same way as, to prove that death has arisen from a certain cause, the opinion of a medical man with regard to symptoms proved to have existed during life, or appearances shewn to have been presented on a post mortem examination, may be submitted to them. In all such cases the jury are the judges of the facts, and judges also of the value which is to be attached to the opinion; and no better scheme has yet been de-

vised for enabling them to perform this latter function than the ordinary method of examination and cross-examination adopted in our common-law courts. The knowledge and experience of the witness, the freedom of his mind from bias, the consistency of his views, and a variety of other considerations of a like nature, must form the means by which the value of his opinions may be tested. To subject scientific evidence to a different treatment would, we think, be materially to interfere with the functions of juries; while the difficulty of separating such evidence from the ordinary evidence of skilled witnesses, to which we have adverted, would be considerable. It would be impossible to define strictly who are scientific witnesses; and even if this could be done with any tolerable accuracy, it would not be easy to assign a valid reason why many other classes of experts should not be put in the same position as men of science in giving evidence in courts of law.

Nor, on the other hand, do we think that the evils arising from the present system are so great as they have sometimes been represented. The instances in which the judge and jury are left in doubt on questions of scientific evidence are rare. When such doubt has not been properly solved, the difficulty has arisen rather from the nature of the subject than from the mode in which the evidence has been taken. In all experimental sciences new facts present themselves, new discoveries are made, new generalisations are obtained, and until the whole field of nature has been investigated, and all her laws unveiled, it is impossible that, when scientific questions arise before a legal tribunal, they should not occasionally be subject to those difficulties which are continually presenting themselves in the laboratory and the study. Even with regard to the partisanship of scientific witnesses, it may well be questioned whether it is not more favourable to the advancement of science and to the ends of justice than a uniform adherence to certain received opinions, and a mere repetition of certain acknowledged formulæ. As respects the treatment of scientific men in the witness-box, we have never found that any such witness, who gave his evidence in an intelligent and independent manner, had any solid ground of complaint. Scientific witnesses, as well as others, ought to bear in mind, that to question the accuracy of their opinions is not to impeach their veracity; and with the votaries of experimental science, there ought to be no great shock to the mental system when an old theory is questioned and a new hypothesis propounded.

Upon these grounds, therefore, we are not prepared to recommend any change in the existing mode of taking scientific evidence, at least until some plan had been proposed of which the advantages would be clear, and which would work harmoniously with the rest of our legal system. To none of the suggestions by scientific men which have been laid before us does this character apply. Some of them are entirely nugatory, and others are opposed to the whole spirit of our jurisprudence, or would introduce an element of confusion, of which it would be impossible to calculate the results. We say this with the utmost respect for those who have proposed them; but being called on to consider the question as one relating to the amendment of the law, we are bound to look at any proposed change with reference to public convenience, and the general principles on which the law is administered in this country. The most important of the suggestions which have been made we shall now proceed briefly to examine.

The first proposal to which we would advert is that which would require that a full statement in writing should be made by scientific witnesses in court, uncontrolled by counsel, and that on such statement the examination and cross-examination should proceed. Now, we are not aware that there is anything at present

to prevent a scientific witness making a statement in writing of his opinions bearing on the matter in issue, if it appears to the counsel who calls him that it would save time, or be otherwise desirable. But to require a written statement in all cases would, we conceive, be objectionable. It would not tend to prevent partisanship, since a scientific witness is generally called because his views in the matter in dispute are known to be favourable to the party calling him, and a written statement would afford him the opportunity of more carefully fortifying his weak points, and presenting his opinions in a more guarded manner, than can always be done on an oral examination. A witness who supported a particular theory would, in general, do so much better in writing than by an oral explanation, elicited by questions which it would be impossible for him in all cases to anticipate. No small danger would arise, we apprehend, if such a mode were introduced, of the statement becoming a regular treatise in support of the peculiar theory which the witness advocated; and there would be no less danger that the language employed in a written statement, for the purpose of obtaining accuracy, would be unintelligible to an ordinary jury. Nor should it be forgotten, that the plan of requiring written statements would be inapplicable to a large portion of scientific evidence, as much of such evidence is necessarily based on facts proved orally in court, and any general statement which did not refer to such facts would be for the most part worthless.

Another proposal made is, that the Crown should appoint scientific assessors, who should, conjointly with the judge, hear the evidence, and, if need were, under his sanction examine the witnesses on scientific points, and advise the judge as to the scientific bearings of the evidence. But what the qualification of such assessors is to be, how many are to be attached to each court, what departments of science are to be thus represented, how the presence of these officials is to be obtained at trials in each of the seven circuits into which England is divided, and how the thing would be likely to work in practice, has not been explained. Nor, even if a duly qualified assessor could be obtained in each case where his presence was wanted, can he comprehend the position which he would occupy, either at the trial, or on an application for a new trial on the ground of the verdict being against evidence. The respective functions and duties of judge, jury, counsel, and witness are well defined in our law, and tend to produce one result; but we venture to think that there is no place for the proposed functionary, who is to interfere with everything, but to settle nothing. Even with regard to the modified scheme proposed by Sir W. P. Wood, V. C., at a recent meeting of the Society of Arts, the difficulties are very great. According to that scheme, assessors should be appointed, who should sit with the judge, and should be bound to give their opinion in public, as well as the reasons on which that opinion was formed, the judge, however, not to be bound by the opinion so given. It must be supposed that the assessors would be persons of competent skill; and it is difficult to understand how the judge would not be morally, if not legally, bound by their opinion, or that any verdict could be supported which went against such opinion. Nor can it be doubted, that if any difference of opinion arose between the judge and the assessors on a matter which the jury must ultimately determine, the latter would be placed in a position of considerable embarrassment. In trials before the Admiralty Court, where the judge is assisted by Masters of the Trinity House, there is no jury; and, after carefully considering the working of the system adopted in that court, we are of opinion that it is altogether inapplicable to the ordinary mode of trial by jury.

It has also been proposed, that in all trials involving scientific evidence a witness should be called by the

Court, who should give his opinion independently of either of the parties, and make an impartial statement of the truth. It may be questioned, however, whether such a witness might not be liable to be biased on questions of mere opinion, where the difficulty generally arises, as much as a witness called by a party; and if the witness called by the Court had formed no opinion on the question which had arisen, it might be difficult to have full reliance on his knowledge. But the great objection to this suggestion is, that it involves a departure from one of the leading principles on which our law is administered, viz. that the evidence on which the judge and jury are to proceed must be furnished by the suitors themselves, and that it is the sole duty of the Court to hold the balance even between the contending parties. Our common law knows of no paternal authority on the part of the Court, enabling it to take the matter out of the hands of the litigants, and to do justice independently of the evidence which they have adduced or failed to adduce; and we can see no reason why trials involving scientific questions should be made exceptions to the wise and beneficial rule, which has both tended to produce a pure administration of justice, and to maintain an independent spirit among the people. Where an application is made in Chancery to the discretion of the Court, it may work beneficially that the judge, when dissatisfied with the evidence on matters of opinion brought forward on either side, should be able to call in disinterested witnesses; but in a trial at law, where the parties have put themselves on the country, the introduction of such a principle would materially interfere with the working of the system.

With regard to the suggestion that the scientific witnesses should meet before the trial, and arrange their points of agreement, so as to arrive at the exact points of disagreement or divergence, the practice would no doubt be attended with beneficial results. It is much to be desired that it should become prevalent among scientific witnesses, and be considered as a matter of course in all cases where practicable. But to enforce such a practice by law would be attended with serious difficulties. Except in the case of written documents in civil causes, a party to a suit cannot be called on to make admissions, but is entitled to put the other party to strict proof of his case; and even an unwarrantable refusal to admit documents only involves the payment of the costs which the other party is compelled to incur. What steps the law could possibly take to insure the meeting of adverse scientific witnesses, or to obtain any result from such meeting, we have altogether failed to perceive.

We have not drawn any distinction between civil and criminal trials with regard to the matter under consideration, because it is one great peculiarity of our judicial system, that the rules with regard to the admission of evidence, and the mode in which it is presented to the jury, apply equally to both. It is difficult to imagine that any scheme for ascertaining the truth on an issue of fact would be advantageous in one case which would not be so in the other; and even if anything could be said in favour of such a distinction, there can be little doubt that it would never be received without the utmost repugnance by the people of this country, and must therefore be considered as entirely out of the question. On criminal trials, if a question of great doubt arises as to a matter involving scientific evidence, the natural course seems to be that the prisoner should have the benefit of that doubt, as well as in other cases where a doubt arises. And on civil trials, under similar circumstances, it will be always in the power of the parties to refer the matter to scientific men, precisely as other matters are referred to competent arbitrators. In civil actions it might even be allowed, in analogy with the provisions of the Common-law Procedure Act, 1854, with regard to matters of mere

account, that at any time after the issuing of the writ, where the matter in dispute was one of a purely scientific character, either of the parties might obtain an order of the court or a judge to refer it to some competent person appointed by the parties, or, if they could not agree, by a judge.

Some valuable suggestions on the subject of trials relating to the infringement of patents were made to the committee by Mr. T. Webster; but as the whole subject of the law of patents is now under the consideration of a joint committee of the British Association and the National Association, we have thought it better to defer making any remarks on this subject until the latter committee has finished its investigations.

### GENTLEMEN CALLED TO THE BAR.

THE following gentlemen have been called to the degree of Barrister at Law:—

LINCOLN'S INN.—John Francis Rotton, Esq., M.A., LL.B.; Edward William Gordon, Esq., M.A.; Charles Walker, Esq., M.A.; Charles Dacre Craven, Esq., B.A.; Arthur Duke Coleridge, Esq., M.A.; Holland Franklyn, Esq., LL.B.; Albert Nevins Flintoff, Esq., M.A.; John Werrett, Esq.; Edward Henry Sayer-Milward, Esq.; Napoleon Gibbs, Esq.; Henry Elwyn Hyde, Esq., M.A.; William Henry Cleaver, Esq., M.A.; Thomas Robinson Williams, Esq.; Hugh Pigot, Esq.; William Spencer Ollivant, Esq., M.A.; Robert Wyatt, Esq., M.A.; and Edward Beldam, Esq.

INNER TEMPLE.—Henry Peter Pisini, Esq., B.A., certificate of honour, first class; John William Mellow, Esq., M.A.; James Tisdall Woodroffe, Esq., B.A.; Robert William Kirby Martin, Esq.; Julian Robins, Esq.; Arthur Paul Stone, Esq.; William Richard Woolrych, Esq.; Richard Temple Rennie, Esq.; John Alfred Barkinyoung, Esq.; Robert Henry Bullock Marsham, Esq., M.A.; Francis Thomas Platt, Esq., M.A.; and Henry O'Hara Moore, Esq., M.A.

MIDDLE TEMPLE.—Frederick Adolphus Philbrick, Esq., B.A.; Frank Cockburn, Esq.; Etienne Pelleran, Esq.; Joseph Deakin, Esq.; Edward Comyn, Esq.; and Edward Backhouse Estwick, Esq.

GRAY'S INN.—Arthur John Hammond Collins, Esq.; and John Bevis Brindley, Esq.

### COURT OF QUEEN'S BENCH.

TRINITY TERM.—23 VICTORIA.—June 4, 1866.

This Court will, on Thursday, the 14th day of June instant, and the two following days, and on Thursday, the 21st day of June instant, and the two following days, hold sittings, and will proceed in disposing of the country cases then pending in the New Trial Paper, and of the cases in the Special and Crown Papers.

The Court will also hold a sitting on Saturday, the 7th day of July next, for the purpose only of giving judgment in cases previously argued.

The Queen has been pleased to appoint Charles Farquhar Shand, Esq., to be Chief Judge of the Supreme Court of the island of Mauritius; also Eliséé Nolin, Esq., to be Crown Solicitor for the aforesaid island.

COMMISSIONERS TO ADMINISTER OATHS IN CHANCERY.—The Lord Chancellor has appointed the following gentlemen to be Commissioners for administering oaths in the High Court of Chancery in England:—Malim Messiter, of Frome, Somersetshire, and Charles Brown, of Maidenhead, Berkshire.

PUBLIC EXAMINATION OF STUDENTS.

TRINITY TERM, 1860.

At a public examination of the students of the Inns of Court, held at Lincoln's Inn Hall, on the 18th, 19th, and 21st May, 1860, the Council of Legal Education awarded to—

James Wilson, Esq., student of Lincoln's Inn, a studentship of fifty guineas per annum, to continue for a period of three years.

Henry P. Pisani, Esq., student of the Inner Temple, and Daniel A. Freeman, Esq., student of Lincoln's Inn, certificates of honour of the first class.

Francis Thomas Platt, Esq., student of the Inner Temple; Thomas Watson, Esq., student of Lincoln's Inn; Charles Walker, Esq., student of Lincoln's Inn; Edward Fitzhayload A'Beckett, Esq., student of Lincoln's Inn; James Tisdall Woodroffe, Esq., student of the Inner Temple; Arthur Brandreth, Esq., student of the Inner Temple; Albert Nevins Flintoff, Esq., student of Lincoln's Inn; Henry Pottinger, Esq., student of the Inner Temple; Richard Coggins Rogers, Esq., student of Gray's Inn; Edward James Athawes, Esq., student of Lincoln's Inn; and John Werrett, Esq., student of Lincoln's Inn, certificates that they have satisfactorily passed a public examination.

By order of the Council,

(Signed) RICHARD BETHELL, Chairman.

Council Chamber, Lincoln's Inn,

May 28, 1860.

**ATHEISTS WITNESSES.**—The Massachusetts Senate has adopted an amendment to its laws, which removes the disability to receive the testimony of Atheists in its courts of law. The amendment provides, that "every person not a believer in any religion shall be required to testify truly, under pains and penalties of perjury." To this an amendment was adopted as follows:—"And the evidence of such persons' disbelief in the existence of God may be received to affect their credibility as witnesses." The latter clause of the amendment was adopted by a vote of ten to seven.

**JOB GOODMAN SHEPPARD**, Towcester, Northamptonshire, brewer, June 20 and July 18 at 1, London: Off. Ass. Stansfeld; Sols. Pagden & Co., 71, Mark-lane, London.—Pet. f. May 29.

**CHARLES LUSH KING**, Ryde, Isle of Wight, Hampshire, tailor, June 20 and July 18 at 12, London: Off. Ass. Graham; Sol. Wyatt, 11, King's-road, Bedford-row.—Pet. f. June 2.

**WILLIAM GRINLING GOODWIN**, Upper Marylebone-street, Middlesex, draper, June 13 at half-past 1, and July 16 at 2, London: Off. Ass. Pennell; Sol. Reed, 3, Gresham-street, City.—Pet. f. June 1.

**JOHN YATES**, Oldbury, Worcestershire, grocer, June 20 and July 9 at 11, Birmingham: Off. Ass. Kinnear; Sols. Collis & Ure, Birmingham.—Pet. d. May 31.

**ROBERT CARRUTHERS** and **GEORGE CARRUTHERS**, Liverpool, drapers, June 13 and July 6 at 11, Liverpool: Off. Ass. Morgan; Sol. Rymer, Liverpool.—Pet. f. June 2.

**WILLIAM HERRING**, Liverpool, confectioner, June 15 and July 10 at 11, Liverpool: Off. Ass. Casenove; Sol. Harris, Liverpool.—Pet. f. June 1.

**GEORGE JAMES HEALD**, Manchester, money scrivener, June 22 and July 13 at 12, Manchester: Off. Ass. Pott; Sols. Higson & Robinson, Manchester.—Pet. f. May 26.

**JOHN ADDINELL**, Stockton-upon-Tees, Durham, druggist, June 14 and July 18 at half-past 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Griffith & Crighton, Newcastle-upon-Tyne; Faber & Co., Stockton-upon-Tees.—Pet. f. March 1.

MEETINGS.

**Wm. Jackson**, Brewer-street, Somers-town, St. Pancras, surgeon, and Queen's-terrace, Maiden-lane, Camden-town, Middlesex, butcher, June 21 at 11, London, aud. ac.—*Saml.*

**Mead and Wm. Mead**, Liverpool, iron merchants, June 19 at 11, Liverpool, aud. ac. sep. east. of *Wm. Mead*.—**William Routledge**, Liverpool, wine merchant, June 19 at 11, Liverpool, aud. ac.—**Wm. Baleshaw**, Bolton, cotton manufacturer, and **Wigan**, Lancashire, banker's clerk, June 19 at 12, Manchester, aud. ac.; June 26 at 12, div.—**Wm. Jackson** the elder, Kingston-upon-Hull, soap manufacturer, July 11 at 12, Kingston-upon-Hull, aud. ac. and div.—**Henry Smith Bright**, Kingston-upon-Hull, merchant, July 11 at 12, Kingston-upon-Hull, aud. ac. and div.—**Thomas Holland**, Milner-square, Islington, Middlesex, tobacco broker, June 26 at 11, London, div.—**Maurice Evans** and **John W. Hoare**, Great St. Helen's, City, and Trinity Wharf, Rotherhithe, Surrey, export wine merchants, June 26 at 11, London, div.—**George H. Venables**, Clapton's Mills, near Beaconsfield, Buckinghamshire, paper maker, June 26 at half-past 11, London, div.—**David Wm. James**, Llwyncelyn Colliery, Llanwonno, Glamorganshire, coal merchant, July 5 at 11, Bristol, fin. div.

CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

**George Ridsdale**, Gower-place, Euston-square, Middlesex, surgeon, June 27 at 1, London.—**James Evans**, Bristol, cattle dealer, July 2 at 11, Bristol.—**Joseph Chatwin**, Birmingham, gas-fitting manufacturer, June 28 at 11, Birmingham.—**George Allen**, Bardney, Lincolnshire, grocer, July 4 at 12, Kingston-upon-Hull.

To be granted, unless an Appeal be duly entered.

**Richard Millar** the younger and **Edward L. Munns**, Primrose-street, Bishopsgate, City, wholesale and export oilmen.—**Henry Watts**, Northampton, draper.—**Henry Hobbs**, Wooburn, Buckinghamshire, common brewer.—**John Styles**, Putney, Surrey, waterman.—**Joseph Charles Ball**, Salisbury, Wiltshire, miller.—**Kemp Goldsmith**, Sutton, near Ely, Cambridgeshire, miller.—**James Heather**, Walton-road, East Molesey, Surrey, builder.—**Richard Bevan**, Liverpool, wine merchant.

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ironmonger, June 21 at 11, Bristol, aud. ac.; July 5 at 11, div.—*J. Rodgers*, North Shields, Northumberland, draper, June 19 at 12, Newcastle-upon-Tyne, aud. ac.—*Thomas Lightfoot*, Sunderland, Durham, shipbuilder, June 19 at 12, Newcastle-upon-Tyne, aud. ac.—*James Steven*, Newcastle-upon-Tyne, hatter, June 19 at half-past 11, Newcastle-upon-Tyne, aud. ac.—*Thomas Shakespeare*, Birmingham, coach manufacturer, June 28 at 11, Birmingham, aud. ac.; July 5 at 11, div.—*Wm. Proctor*, Leeds, linendraper, June 21 at 11, Leeds, aud. ac.—*Edward Teall* and *Reuben Teall*, Leeds, boat builders, June 21 at 11, Leeds, aud. ac.—*M. Firth* and *Wm. Firth*, Manningham, near Bradford, Yorkshire, plasterers, June 25 at 11, Leeds, aud. ac.—*William Harris* and *W. West*, Kingston-upon-Hull, drapers, July 11 at 12, Kingston-upon-Hull, aud. ac. and div.—*Michael Salmon Seeley*, Lincoln, confectioner, July 11 at 12, Kingston-upon-Hull, aud. ac. and div.—*William Jacob Thorpe*, Commercial-road, New Peckham, Surrey, painter, June 30 at half-past 11, London, div.—*Thomas Eason*, Milton near Sittingbourne, Kent, brewer, June 30 at 11, London, div.—*John Perkins*, Oakham, Rutlandshire, haberdasher, July 3 at half-past 2, London, div.—*William Knapton*, York, iron-founder, June 29 at 11, Leeds, div.

## CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*Jane Ansell*, spinster, North Ockendon, Essex, grocer, June 30 at 12, London.—*Andrew Wilson*, Aldershot, Hampshire, surgeon, June 29 at half-past 12, London.—*James Wenham*, Swaffham, Norfolk, watchmaker, June 30 at 11, London.—*John M'Alpine*, Cheltenham, Gloucestershire, ironmonger, July 2 at 11, Bristol.—*Joseph Underhill*, Plymouth, Devonshire, ironmonger, July 2 at half-past 12, Plymouth.—*James Merriman*, Hyson Green, Nottinghamshire, lace manufacturer, July 3 at 11, Nottingham.—*D. Bishop Crick*, Leicester, builder, July 3 at half-past 11, Nottingham.—*Henry Bach*, Sheffield, Yorkshire, hosier, June 30 at 10, Sheffield.

*To be granted, unless an Appeal be duly entered.*

*William Robins*, St. John-street, St. Sepulchre's, Middlesex, carpenter.—*Charles Hollingsworth Tidbury*, Lavender Dock-wharf, Surrey, and Great James-street, Bedford-row, Middlesex, wharfinger.—*George Read*, Portsmouth, cattle dealer.—*William Rothwell*, Enfield Highway, Middlesex, boarding-house keeper.—*Thos. Nicholson* the younger and *Isaiah Birt Nicholson*, Gloucester, coal merchants.—*John Harris*, Lea Bailly, Gloucestershire, innkeeper.—*Jas. Beatty*, Longtown, Cumberland, draper.—*John W. Graves*, Birkenhead, Cheshire, chemist.—*Samuel Beddoe* the elder, Tipton and West Bromwich, Staffordshire, rope manufacturer.—*Geo. Eltoft*, Bradford, Yorkshire, draper.

## SCOTCH SEQUESTRATIONS.

*Miles Lockhart*, Ardsheil, Argyleshire, quarry master.—*James Cameron*, Lower Muckvorie, near Inverness, farmer.—*Lewis Macbean*, Inverness, grocer.

TUESDAY, *June 12.*

## BANKRUPTS.

RICHARD CROWLEY, Brighton, Sussex, builder, June 21 at 2, and July 19 at 1, London: Off. Ass. Johnson; Sol. Frost, 138, Leadenhall-street.—Pet. f. June 8.

JOHN MURLEY, St. Chad's-wells, Gray's-inn-road, Middlesex, carriage builder, June 21 at 1, and July 20 at half-past 11, London: Off. Ass. Cannan; Sols. Dawson & Bryan, 33, Bedford-row.—Pet. f. June 9.

BRAFIELD CASWELL, Northampton, shoe manufacturer, June 25 and July 30 at 1, London: Off. Ass. Pennell; Sol. Hand, 22, Coleman-street, London.—Pet. f. June 11.

JAMES WILLIAM FERGUSON, Paternoster-row, City, and New-court, Middle Temple, bookseller, June 21 at half-past 12, and July 25 at 1, London: Off. Ass. Stansfeld; Sol. Chidley, 10, Basinghall-street.—Pet. f. June 7.

THOMAS SWEETLOVE, Great Bridge, Staffordshire, chemist, June 22 and July 12 at 11, Birmingham: Off. Ass. Whitmore; Sol. Sill, Birmingham.—Pet. d. June 8.

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THE JURIST.

LONDON, JUNE 16, 1860.

HALLAM, in his "Constitutional History," when giving an account of the dissensions between the two Houses of Parliament on the exclusive right of the Commons as to money bills, observes, "The embers of that fire may not be so wholly extinguished as never again to shew traces of its heat." The learned historian's anticipation has been realised by the Lords' rejection of the Bill for the Abolition of the Paper Duty; for the question has thereby arisen, whether the Lords possess the right to reject a bill passed by the Commons for repealing an excise duty? It will not be the fault of some of our daily contemporaries if this question of privilege does not lead to a dispute between the two Houses as violent as some of those which occurred on the questions of *The Jurisdiction of the House of Lords in Appeal Cases*, and *The Aylesbury Election case*, in the reigns of Charles II and Anne. That the subject is an important one will not be denied by any one acquainted with our constitutional history; but neither violent declamation against the House of Lords, appeals to the prejudices of the masses, nor dogmatic assertion of untenable theories, can lead to any satisfactory conclusion. It is a question of constitutional law, which can only be solved by reference to historical precedents and parliamentary law. The absurd dogmatism displayed by

many of those who consider that the privileges of the Commons have been violated by the Lords might lead one to believe that the law of Parliament is indeed "a multis ignorata," as Sir E. Coke asserts, (1 Inst. 11), were not their party prejudices so conspicuous, that one is ready to adopt Lord Holt's observation—"As to what my Lord Coke says, that the 'lex Parliamenti est a multis ignorata,' that is only because they will not apply themselves to understand it." (2 Ld. Raym. 1114).

That the Commons possess the right of originating all bills imposing taxes or granting supplies is a fundamental law of Parliament. Subsidies and aids were said to be granted "per communitatem Angliæ nobis;" because, says Coke, "all grants of subsidies or aids by Parliament do begin in the House of Commons, and first granted by them." (4 Inst. 29). It appears from the parliamentary records, that, in the early period of our history, the Lords and Commons voted separate subsidies for themselves. At length, when the political importance of the Commons increased, and when their proportion of the taxes became greater than that of the Lords, so that the subsidies voted by them became the principal source of the imperial revenue, the Commons gradually assumed the privilege which they now possess in regard to taxation and supply, and not only included the Peers as well as themselves in their subsidies, but established their exclusive privilege of originating all bills for the imposition of taxes. In the

parliamentary rolls of the reign of Henry IV is to be found one of the earliest precedents in which the Commons asserted this privilege. In 1407 the Lords passed a resolution for the prolongation of a tax upon wool, skins, &c., declaring that the same was in view of defence against enemies, and for the due safeguard of the realm: This resolution being reported to the Commons, and their concurrence demanded, the roll states—“Quele report ensi fait as ditz Communes, ils ent furent grandement destourbez, en disant & affermant ce estre en grant prejudice et derogation de lour libertees; et depuis qe nre. dit S<sup>r</sup>. le Roy ce avoit entenduz, nient veullant qe riens soit fait a present, n'en temps advenier, qe tourner purroit ascunement encontre la libertee de l'estate, pur quelle ils sont venuz au Parlement, n'encontre les libertees de les Seignrs. suis ditz, voet & graunte, & declare, de l'avis & assent de mesmes les Seignrs. en la manere q'entente. C'est assaver, qe bien lise les Seignrs. de comuner entre eux ensemble en cest present Parlement, & en chescun autre en temps advenier, en absence du Roy, de l'estate du Roialme, & de le remedie a ce busoignable. Et qe par semblable manere bien lise as Communes, de lour part, de comuner ensemble de l'estate et remedies suis ditz. Purveux touterfoitz qe les Seignrs. de lour part, ne les communes de la leur ne facent ascun report a nre. dit S<sup>r</sup>. le Roy d'ascun Grant p. les Communes grantez & p. les Seignrs. assentuz, ne de les communications du dit Grant, avaunt ce qe mesmes les Seignrs. & Communes soient d'un assent et d'un accord en celle partie, & adonques en manere & forme come il est accustumez, c'est assaver p. bouche de Purparlour de la dite commune pur le temps esteant.” (Rol. Parl. 3, 611; 9 Hen. 4, No. 21). It will be observed, that this ordinance not only states that the Commons deemed the proceedings of the Lords “in great prejudice and derogation of their liberties,” but in it the Commons distinctly admit that all grants of money are made by them, and assented to by the Lords, the words being, “that neither the Lords nor the Commons shall make any report to the King concerning any aid *granted* by the Commons, and *assented* to by the Lords.” It is important to notice, that the ordinance is so worded that both the Crown and the Peers seem to concur in this assertion of privilege by the Commons; and it does not appear that since that time the right of the Commons to originate money bills has ever been questioned. So jealous has the Lower House been to guard against any apparent infringement of this privilege, that in the short Parliament of April, 1640, the Lords having sent a message to the Commons requesting them to let a bill of supply have precedence over a discussion on grievances, this act was resented as a great breach of privilege, and the celebrated Pym was appointed to draw up a protest, and present the same at a conference. (Com. Jour., April 28, 1640). This right of the Commons is recognised in the peculiar form of a bill of supply, the preamble to which recites the grant as the gift of the Commons alone, but adopts the customary words, “by and with the assent of the Lords spiritual and temporal,” in the enacting words.

The Lords were not originally precluded from amending bills of supply; for on the journals of the House are numerous cases in which the Commons agreed to

such amendments. It was not until after the Restoration that the Commons declared the alteration of a money bill to be a breach of their privileges. In 1661 a bill for paving the streets of Westminster was sent from the Lords down to the Commons; although this was only a local act, yet, as it imposed a charge upon the people, the Commons laid it aside, and brought in another bill, because they conceived “that it was a privilege inherent in their House that bills of that nature should be first considered there.” (Com. Jour., July 24 and 29; Lords' Jour., July 30, 1661). When the second bill was sent to the Upper House, the Lords inserted a clause, to which the Commons disagreed, for the first time denying to the Lords the right to amend a money bill. The Lords considered this assertion of the Commons to be against the inherent privileges of their House: the bill was withdrawn altogether, and from that time till 1689 the controversy between the two Houses was constantly revived as to the limits of the exclusive privilege claimed by the Commons. In 1671, an amendment having been sent from the Lords for changing the proportion of an imposition on sugar from one penny per pound to one halfpenny half farthing, the Commons resolved, that “in all aids given to the King by the Commons, the rate or tax ought not to be altered.” (Com. Jour., April 13, 1671). In 1678 the Commons placed on their Journals a resolution, “That it is the undoubted and sole right of the Commons to direct, limit, and appoint in such bills the ends, purposes, considerations, conditions, limitations, and qualifications of such grants, which ought not to be changed or altered by the House of Lords.” (Com. Jour., July 3, 1678). In 1678, the Lords, wishing to appoint certain Peers to rate the estates of all Peers to a poll-tax, amended a bill which had been sent up to them for the levying of such tax. The Commons disagreed, and desired a conference, and moreover placed upon the Journals a resolution, giving their reasons for such conference, which embodies a statement of the rights and privileges of the Commons on the subject of taxation. To this resolution reference will be made in a subsequent article on this subject. Although the Lords have never, by any resolution, acknowledged that the Commons possess any further privilege than that of originating bills of supply and taxation, yet as the Commons have invariably refused to consider any amendments made by the Lords to such bills, and the Lords now refrain from making any alterations in them, it must be taken as an established maxim of the *lex et consuetudo Parliamenti*, that amendments in money bills cannot be made by the Upper House; and Lord Lyndhurst admitted this in his speech on the recent debate on the repeal of the paper duty.

(To be continued).

## Correspondence.

TO THE EDITOR OF “THE JURIST.”

SIR,—I crave once more a little space for a short answer to your comments (ante, p. 215) on my letter of the previous week. I contend that I did not misdescribe the first part of Lord Cranworth's bill when I said that it differed in principle from Lord Brougham's

**Acts.** Lord Brougham enacts that a certain specified form of words shall be deemed to mean another specified form of words. Lord Cranworth would enact that, under certain specified circumstances, trustees shall have such and such powers; and I submit that the latter plan does differ in principle from the former, and is not open to the same objections. Into the rest of your criticism on the bill I still refrain from entering, admitting as I do that the expediency of such experiments is by no means certain, and not feeling any call to defend those points of detail where you think the execution defective. One observation, however, I would add with reference to the opinion expressed in your first article on the subject, (*ante*, p. 188), and repeated *ante*, p. 216, that even if the bill passes it will become almost a dead letter, because careful conveyancers will habitually insert in deeds a clause expressly negating its operation. I understand you to mean by this, not merely that they will do so in cases where they are satisfied that it is not desirable that the bill should apply, but that, being content with their own tried forms, they will continue to use them, and save themselves the trouble of thinking out the true operation of the bill by the simple expedient of exclusion. Perhaps conveyancers may be tempted to do so; the flesh is weak, and we none of us like to go to school again in our old or middle age; nevertheless, I must own to some regret that you did not add a word or two to express, what I am sure you must feel, that such a course is not justifiable in the practitioners of a liberal profession. We owe it to our clients, as well as to the true interests of our own calling, to test carefully every measure of this kind, and to adopt it wherever it will stand the test; and I must add, that so far as my small experience goes, your forebodings are not warranted by the mode in which some recent enactments have been received. I imagine that powers of leasing for twenty-one years are now not unfrequently omitted from settlements and wills in consequence of the 32nd section of the Settled Estates Act, and trustees' indemnity clauses in consequence of the 31st section of the 22 & 23 Vict. c. 35.

M.I.B.

## EXAMINATIONS AT THE INCORPORATED LAW SOCIETY.

TRINITY TERM, 1860.

At the examination of candidates for admission on the roll of attorneys and solicitors of the Superior Courts, the Examiners recommended the following gentlemen, under the age of twenty-six, as being entitled to honorary distinction:—

1. William Carvill Boyle, aged twenty-one, who served his clerkship to Mr. William Ansell Boyle, of London.
2. Alexander Butler Rowley, aged twenty-two, who served his clerkship to Mr. James Campbell Rowley, of Manchester.
3. Arthur Raymond Harding, aged twenty-four, who served his clerkship to Messrs. Austen & De Gex, of London.
4. Alexander Henry Clarke, aged twenty-one, who served his clerkship to Messrs. Clarke & Morice, of London.

The Council of the Incorporated Law Society have accordingly awarded the following prizes of books:—

To Mr. Boyle, the prize of the Honourable Society of Clifford's-inn; to Mr. Rowley, one of the prizes of the Incorporated Law Society; to Mr. Harding, one of the prizes of the Incorporated Law Society; and to Mr. Clarke, one of the prizes of the Incorporated Law Society.

The Examiners have also certified that the following candidates, whose names (with the exception of that of Mr. Killick, whom the Examiners think deserving of especial notice) are placed in alphabetical order, passed examinations which entitle them to commendation:—

Henry Fison Killick, aged twenty-one, who served his clerkship to Mr. James Wood, of Bradford, Yorkshire; and Messrs. J. W. & W. Flower, of London.

Francis James Baily, aged twenty-one, who served his clerkship to Mr. Henry Francis Theobald Miller, of Frome; and Messrs. Combe & Wainwright, of London.

Thomas Hewitt, aged twenty-two, who served his clerkship to Mr. George Birch, of Lichfield; and Mr. George Capes, of London.

Thomas Francis Leadbitter, aged twenty-one, who served his clerkship to Messrs. Hollingsworth & Tye-man, of London.

John Hessel Priestley, aged twenty-one, who served his clerkship to Mr. Joseph Nowell, of Barton-upon-Humber.

John Rhodes, aged twenty-two, who served his clerkship to Messrs. Arrowsmith & Allison, of Thirsk; and Messrs. Clarke & Morice, of London.

John Hugh Roberts, aged twenty-three, who served his clerkship to Mr. William Thearsby Poole, of Carnarvon; and Messrs. Bloxam, Ellison, & Bloxam, of London.

Alfred James Soden, aged twenty-one, who served his clerkship to Mr. Frederick Barlow, of Cambridge; and Messrs. Sharpe, Jackson, & Parker, of London.

Robert Stephenson, aged twenty-four, who served his clerkship to Mr. Charles Marleest Barron Veal, of Grimsby.

The Council have accordingly awarded them certificates of merit.

The Examiners have further announced to the following candidates that their answers to the questions at the examination were highly satisfactory, and would have entitled them to certificates of merit, if they had been under the age of twenty-six:—

Thomas Beasley, aged twenty-six, who served his clerkship to Messrs. Rushton & Cooper, of Uttoxeter; and Messrs. Chester & Toulmin, of London.

John Bidlake, aged twenty-seven, who served his clerkship to Mr. William Cheshire Glover, of Shiffnal; and Mr. Robert Daniel Newill, of Wellington, Salop.

The number of candidates examined in this term was 86; of these 79 were passed, and 7 postponed.

By Order of the Council,

ROBERT MAUGHAM, Secretary.

Law Society's Hall, June 7, 1860.

## LAW AND EQUITY BILL.

*Memorial of the Common-law Commissioners respecting the Law and Equity Bill. Addressed to the Lord Chancellor.*

May 18, 1860.

MR LORD,—Our attention having been called by your Lordship to the objections urged in the memorial of the equity judges against the bill introduced into the Legislature on the recommendations contained in our last Report, with a view to our offering such answer as our acquaintance with the subject might suggest, we beg to submit the following observations in reply.

We must begin by premising that the scope and effect of the alterations proposed in the jurisdiction of the common-law courts has been greatly misconceived, while the objectors appear to have lost sight of the extent to which equitable jurisdiction has already been conferred on these courts, as well as of the great im-

provements which have been introduced in modern times into their procedure.

In the sweeping criticisms with which our recommendations have been assailed, the proposal to confer further equitable jurisdiction on the courts of common law has been treated as a scheme of innovation and demolition, now first propounded; and the incompetency of the common-law judges, and the inadequacy of their procedure, to deal with equitable rights, has been taken for granted, and unhesitatingly asserted, as though equitable jurisdiction had never before been conferred upon or exercised by the legal tribunals of the country.

We shall have no difficulty in shewing, that with a single, and that a very unimportant, exception, in no instance is it proposed to enlarge the equitable jurisdiction of the common-law courts, except where this jurisdiction already to some extent exists, and where the competency of these courts and of their procedure to administer it has already been established by practical experience.

It may not be inexpedient to pause for a moment to take a brief survey of what has already been done in this respect.

The rigid simplicity of the ancient common law, and its strict and inflexible procedure, having proved inadequate to meet the exigencies of a state of society becoming every day more complicated and refined, and the Legislature omitting to intervene to bring the law into harmony with the more liberal principles of rational and enlightened justice, courts of equity stepped in to supply the place of legislation, by the application of a rude yet not wholly inefficacious remedy—partly in eking out the defectiveness of the common-law procedure, partly in mitigating the rigour of the law where an adherence to its letter would have worked injustice—not, indeed, by attempting directly to control the action of the legal tribunals—an attempt which would at once have been resisted—but by coercing the suitors by means of personal duress to forego their legal rights, and to submit to have justice done between them on equitable principles.

Experience, however, soon made men sensible that the benefits of this equitable jurisdiction were greatly diminished by the drawbacks of double tribunals and a twofold litigation, attended by a vast increase of expense. Hence, from time to time, during the last century and a half, according as particular inconveniences successively forced themselves on the attention of the Legislature, portions of the jurisdiction, at first exercised only by the courts of equity, have been transferred by statute to the courts of common law.

The power to relieve against the penalty of bonds conditioned on a defeasance, to relieve up to the time of trial against actions of ejectment on forfeiture for non-payment of rent, to relieve mortgagors in actions on mortgage bonds or actions of ejectment, on payment of the principal and interest, and the important process of interpleader, are examples of this transfer of jurisdiction.

To these instances of encroachment on the domain of courts of equity must be added the transfer, in our own time, of the whole of that extensive and important jurisdiction which was known under the name of "auxiliary equity." The powers included under this head being wanting in the original procedure of the common law, courts of equity, as has already been observed, took upon themselves to make good the deficiency. Better this, no doubt, than that such powers should nowhere be found for the protection of right; yet so great the evil that a court in which a suit was pending should not have the means of doing justice between the litigants; so great the hardship of being compelled to resort to a second court to supply the defects in the procedure of the first; so serious the harassment, and,

above all, the expense of the double proceeding, that the remedy was often more grievous than the absence of redress; and parties, especially of the poorer sort, more particularly where the matter in dispute was not of large amount, preferred to submit to injustice rather than have recourse to a remedy oftentimes far worse than the mischief to be cured. When, therefore, the Common-law Commissioners recommended the transfer of these powers to the courts of law, Parliament at once saw the propriety of the suggestion, and gave effect to it by legislative enactment. Yet the same argument might have been urged then which is resorted to now. The powers which it was proposed to confer on the common-law courts were powers which the courts of equity for many generations had exclusively exercised, according to principles and rules with which, so far as their practical application was concerned, the common-law judges could not be expected to be familiar; yet these powers have now been extensively exercised by the common-law courts, to the infinite advantage of the suitors. The judges have had no difficulty in familiarising themselves with the principles and rules established by the practice of equity in this department; and the machinery of the common law has proved itself abundantly adequate to the exigency of the occasion.

It may safely be asserted, that owing to the increased facility and diminished cost of the present mode of proceeding, for every instance in which resort was had to a court of equity under the old system, hundreds of instances now occur in which the corresponding powers of the common-law courts are called into action, and are found fully effective for the purpose.

The innovation introduced by the Legislature into the established jurisdiction of the different branches of our judicature did not, however, end here; and assuredly a further and a great change was imperatively called for.

The existence of two conflicting systems of law, recognising inconsistent and incompatible rights, the one called common law, the other equity, administered by two distinct sets of tribunals, each refusing to give effect to rights which would be enforced by the other, is not only an anomaly in jurisprudence, but has been found to be attended with practical inconvenience and mischief of the most serious character. That a plaintiff, who has brought his action in a court of law, the only court to which he could resort, should be liable to have his action suspended, or the fruits of the judgment he may have obtained withheld, while he is compelled to follow his opponent to a different tribunal on an allegation of equity; or, still worse, that a defendant sued in a court of law, and having a valid defence on equitable grounds, though none at law, should be under the necessity, instead of at once setting up such equitable defence as an answer to the action, to resort to another court, and there initiate a new and costly proceeding, at an expense in many instances immeasurably disproportioned to the value of the matter of the dispute, was a judicial grievance and abuse which neither time nor authority could sanction, and which, as soon as the work of legal reform was undertaken in a large and earnest spirit, neither prejudice nor interest could defend, so far as to resist some modification of the evil.

When, therefore, in our Second Report, we had gone the length of recommending that jurisdiction should be given to the courts of law to entertain considerations of equity when arising incidentally in an action at law, the Legislature, although it did not see fit to give full effect to our suggestions in respect of equitable jurisdiction, yet took the very important step of enacting that equitable defences might henceforth be pleaded in an action.

Here, again, it may be observed, that almost all the arguments which are now urged against the extension of jurisdiction at present proposed would have been

equally applicable to the change then introduced. The best answer to them is, we think, to be found in the practical experience of the working of this equitable jurisdiction, which has been exercised by the common-law courts for now six years. It is from our experience of the usefulness of this jurisdiction, so far as it extends—from our persuasion that its only defectiveness arises from its not being sufficiently extensive, as well as from our conviction that, if the jurisdiction were enlarged, the courts of common law possess ample machinery for working it out, that we have been led to urge the expediency of extending the sphere of equitable defences in actions at law.

It will be convenient to divide the subject of the equitable jurisdiction proposed to be conferred by the bill into two branches—first, where the jurisdiction proposed to be enlarged or conferred arises on an action pending; secondly, where it is to be exercised independently of an action.

In the first branch equitable defences occupy the most prominent place. Equitable defences being now admissible in an action, a class of cases has arisen in which, although the defendants were desirous of pleading equitable pleas, a practical difficulty presented itself, from the equity being conditional on something to be done in futuro, or on a contingency. Such a plea a court of law could not, in the exercise of its discretion, allow to be pleaded, inasmuch as the plea, once found for the defendant, would be a bar in all time to come to the plaintiff's right, while the court would have no power to compel the performance of the condition on which the equity arose. Now, it is plain, that if this difficulty can be removed, the same reason exists for permitting an equitable plea of this nature to be made available in an action as exists where the equity is unconditional and complete.

If the condition had been performed, we have the sanction of the Legislature for saying that the equitable plea should be allowed. If the performance of the condition can be insured, there can be no conceivable reason why the defendant, who is willing to perform the condition in order to obtain the benefit of the equity which would so result to him, should be driven to a court of equity to establish his defence. Of course, this is said on the assumption that a court of common law would be able, from the competency of its judges and its officers, to insure the due and effectual performance of the condition. To doubt of this would be, as it seems to us, to doubt of their competency to administer the law at all; and we cannot bring ourselves to suppose that any serious resistance can be offered to the proposed amendment on this ground. It seems to us to follow, from what has been said, that conditional equity should be made available as a defence in an action at law, just as unconditional equity already is. Whether this should be done by an application for relief to the court in which the action is pending, (as proposed by the bill), or by allowing such an equitable defence to be pleaded, and giving the court power, if the plea should be found for the defendant, to enforce the performance of the condition, on the application of the plaintiff, may be open to consideration.

The next instance in which it is proposed to give jurisdiction in respect of equitable matter is the case of interpleader. It is of every-day occurrence, that, money or goods being in the hands of persons not claiming beneficial interest therein, or goods being seized by sheriffs in executing the process of the courts, adverse claims are set up, whereby persons thus circumstanced are placed in an embarrassing position, and are exposed to be harassed by actions, and subjected to eventual loss. It is plain that persons so circumstanced ought in justice to be relieved, on actions being brought against them, by the parties claiming the beneficial interest being put to fight out their claims. Formerly

this relief could only be obtained by interpleader bill in equity—a proceeding which, as the stat. 1 & 2 Will 4, c. 58, recites, was “attended with expense and delay.”

By this statute interpleader jurisdiction was given to the courts of law. But this jurisdiction does not attach where the *jus tertii* set up is founded on equitable right. This jurisdiction it is now proposed to give. It cannot be contested that an innocent party, thus placed between two fires, ought equally to be relieved in the case of equitable as of legal claims. The expense and delay to the party against whom the adverse claim is set up by the institution of fresh proceedings in equity are, of course, equally great. The action is already in the court of common law, and the reasons against the double litigation apply as strongly in this as in other instances. The object ought obviously to be to place the case on such a footing that the action shall become one between the parties really interested. Now, if the action were between the real parties, as, for instance, between an execution creditor (on a seizure of goods by the sheriff) and a party setting up an adverse claim, instead of between the claimant and the sheriff, any equitable right of the claimant would be available to him against the plaintiff under an equitable plea without recourse to a court of equity. But if, in an ordinary action of trover between A. and B., any equitable rights of the defendant, as an answer to the action, would be cognisable by the court, it seems difficult to understand why, when it is sought to bring A. and B. into their proper position as litigants, at the instance of a party entitled to interpleader relief, the equitable nature of B.'s interest, which would be cognisable by the court if A. and B. were once before it as plaintiff and defendant, should be a reason for withholding from the court the power of granting such relief, and for putting the parties concerned to the vexation and expense of a fresh suit before another tribunal. In addition to which, another and a very cogent reason for extending the process of interpleader to such cases is to be found in the fact, that the setting up of adverse claims by third parties generally arises on the seizure of goods by sheriffs in execution on process from the common-law courts. To these officers, courts of equity, as was pointed out in our late Report, have refused relief by interpleader; while, on the other hand, they are liable to hostile proceedings if they omit to take possession of property according to the exigency of the writ of execution.

Next as to the proposal to extend the jurisdiction first conferred on the common-law courts by the act 4 Geo. 2, c. 28, in an action of ejectment brought on a forfeiture for non-payment of rent. By that statute the equitable power, previously exercised by courts of equity alone, of relieving the tenant on payment of the rent due, was given to the court in which the action is brought, up to the time of trial. Relief may be obtained in equity for a further period of six months after execution; but to obtain the latter relief fresh proceedings in equity must be taken. The simpler course would surely be to allow the court in which the action has been brought to afford the relief to the same extent as a court of equity can afford it. The record is in the former court; the facts are before it; the application may be by motion on affidavit; the expense of a second suit in a different court, with a fresh statement of facts, and perhaps fresh proofs, will be avoided. Nor can any possible ground be suggested, as far as we are aware, why the court, which is thought competent by the Legislature to give relief up to the time of trial, should not be equally so after trial.

In like manner, we cannot but think that the power conferred on a court of equity by the 22 & 23 Vict. c. 36, s. 4, to relieve against a forfeiture on a covenant to insure, where no loss has occurred, and the breach has been committed by accident or mistake, or otherwise without gross fraud or negligence, and a policy

is in fact in existence such as the covenant requires, might advantageously be extended to courts of common law—at all events, when an action has been brought on the forfeiture. It must, we apprehend, be at once conceded that the questions involved are peculiarly within the province of a common-law court; and there seems to be no conceivable reason why a second suit should be necessary to afford the defendant protection.

We pass on to the important question, whether a party to an action, who has once had the opportunity of pleading equitable matter, and who has not availed himself of it, shall be concluded by the omission, as he would have been by the omission to plead matter available at law if his case had rested on legal grounds, so as to preclude him from afterwards resorting to a court of equity to defeat the action.

The affirmative of this proposition appears to us to follow of necessity the moment equitable matter is permitted to be introduced at all into the action at law. The argument, that a plaintiff who has necessarily commenced his suit in a court of law ought not, at the option of the other party, to be dragged before some other tribunal, applies equally, at whatsoever stage of the suit this anomaly arises. Indeed, the later the stage of the proceedings the greater and more grievous the hardship; inasmuch as, if the equitable right should eventually prevail over the legal, all the expense of the action, which may, perhaps, have involved a trial at *Nisi Prius*, and may have proceeded even to judgment and execution, will have been entirely thrown away; added to which, it seems repugnant to justice that a party shall be thus permitted to fight out his cause with his adversary on one stage, and, having there taken his chance of success, shall be at liberty, when defeated, to renew the conflict on a different ground, which, if rightly taken at first, would have prevented the prolongation of the original contest; while, if the equitable ground be wrongly taken at such later stage, the effect is necessarily to delay the party who has succeeded in the contest at law from reaping the benefit of the decision in his favour.

It is unnecessary to dwell on the various grounds on which the salutary rule is based, that, in judicial proceedings, litigant parties must put forward their respective cases, whether of attack or defence, at the proper stages of the suit, or be concluded by their omissions, as well as that judgment, once pronounced, in the last instance shall be final and conclusive. They may be summed up in a word—without this rule litigation would be interminable, nor could rights ever be definitively ascertained or securely established. It is obvious that this principle applies equally to the case of equitable as of legal defences; and it seems to us to follow, that if matter of equity is allowed to be pleaded in actions at law, and a court of common law is to have jurisdiction in respect of such matter at all, it should be obligatory on the party relying on equitable grounds to put them forward at the fitting time, just as it would be to bring forward matter of law; and that a party omitting to take his stand on equitable grounds, which it was competent to him to bring forward in the action, ought not to be allowed afterwards to harass his opponent by a renewal of the litigation by proceedings in a court of equity.

It is obvious that much of the foregoing reasoning applies to the bill in equity for a new trial, by which, after trial and judgment in a court of law, on the discovery of new matter, though amounting only to a defence at law, relief may be applied for in a court of equity after the expiration of the time within which a new trial could be applied for in the court in which the action has been brought. It seems to us plain that this is an inconsistency which ought to be removed. If the time limited in the court in which the action has

been brought, and the trial had, is too short, that time should be extended. But it seems a startling anomaly, that when the court in which the action has been properly brought has pronounced its final judgment, a second court, not having any appellate jurisdiction over the first, may take the cause in hand, try the whole matter over again, deprive the victorious suitor of the judgment he has obtained, and decide in favour of the opposite party.

The only objection to our recommendation in this respect, so far as we are aware, has been the denial of the existence of such a process. This, however, is a mistake. The proceeding has, as was stated in our Third Report, fallen into disuse, but there is nothing to prevent its being revived. The weapon may have been laid aside, and may have grown rusty, but there is nothing to prevent its being again brought forth, and made an instrument of mischief. The forensic combatant will not have to search far or deep to find it. In two text-books of the Profession—namely, *Mitford on Equity Pleading*, 131, and *Story on Equity*, ss. 887, 888—the bill of new trial is treated of as an existing part of equity procedure, and its terms and conditions prescribed with considerable detail. The jurisdiction is treated as an existing one; nor is it suggested that, if again invoked, it must not be exercised. On reference to these authorities, it will be seen, that where a bill of review in respect of a suit in equity may be brought, the bill of new trial, upon judgment in an action at law, may be resorted to. Acting upon such authorities, we deemed it our duty to direct attention to this conflict of jurisdiction, and to suggest the expediency of cutting off the possibility of its practical recurrence.

We next proceed to consider the proposal to give to the common-law courts power to protect by injunction property, whether real or personal, the title to which is in contest in an action at law, from alienation, waste, or injury, till the right shall have been determined.

We must, in all humility, confess that we are at a loss to conceive that any substantial objection can be offered to a proposal so obviously reasonable.

It is plain that such a power should exist somewhere. A man in possession of land, the title to which is contested, *a fortiori* a man in possession without a title, ought not to be permitted, pending proceedings to eject him, to commit waste to the damage of one who claims with a better title. A man who is in wrongful possession of a chattel, for the loss of which money may be a very inadequate compensation to the rightful owner, ought not to be left at liberty to make away with it while an action for its recovery is pending.

At present, protection in this respect can only be obtained by recourse to a court of equity, while the recovery of the thing itself can only be effected in a court of law—two suits, with twofold expense, where one would suffice!

And no question can here be raised as to the competency of the tribunal.

It would be strange, indeed, if it could be doubted that the court, which, in an action of ejectment or detinue, has to determine the right to the corpus of the estate or chattel, was also capable of deciding whether the defendant should be restrained from committing waste, or making away with the thing in dispute, until the right was determined.

We now pass on to consider the instances in which it is proposed to confer new jurisdiction on courts of law, irrespective of any pending action.

And, first, as to the proposed power of restraining by injunction the impending violation of any legal right. We must here beg it may be borne in mind, that it is not proposed, in this branch of the subject, to confer on courts of law powers in respect of any



rights which are not strictly of a legal character. Throughout the contemplated amendments, it has never been proposed, where title to property was complicated by equitable rights, to withdraw the decision from the courts of equity. This being kept in view, we must confess ourselves altogether at a loss to conceive why, when legal rights alone are involved, a court of law, whose special and proper province it is to determine such rights, should be without power to protect them from violation. And it must be observed, that this anomaly in our judicial system is rendered the more striking and discreditable to our jurisprudence by the partial jurisdiction already extended to the legal tribunals by the act of 1854.

As the law now stands, if a single act of wrong has been committed, a court of law, on an action being brought, has power to grant an injunction to prevent a repetition of the wrong. If a nuisance were about to be created which would seriously lessen the value of a man's property—as, for instance, if a local board were about wrongfully to bring the main sewer of the district close to a man's premises—no protection could be afforded by a court of law. But if the thing has once been done, and the whole expense incurred, not only may damages be recovered for the present injury, but the nuisance may be abated for all future time. If, out of a thousand trees growing on an estate, a single tree be wrongfully cut down, an injunction may be obtained from a court of law to prevent the cutting down of the remaining 999. But if, with the certainty of impending injury, the party whose rights are about to be invaded should come to a court of law for protection before the axe has been laid to the root of the first tree, he would be told, that while, if he had waited till one tree was cut, the court would have protected him as to all the rest, the Legislature has not thought fit to entrust the court with powers for the protection of the first, but has committed that to the exclusive keeping of a court of equity. We cannot but think that this state of things (arising as it does out of the partial manner in which the recommendations of our Second Report as to injunction were carried into effect) is an anomaly in our judicial system which almost borders on the ludicrous, and is a serious reproach to our legislation.

We must be forgiven for saying that we cannot comprehend the alarm which the proposal to remove it has occasioned. The jurisdiction is one which, reference being had to the subject-matter, falls properly within the province of the common-law courts. It is one in which these courts already possess and exercise in an ulterior stage. The competency of the courts or of their procedure cannot come into controversy. The question has been concluded by the Legislature itself, in conferring powers which presuppose all the qualifications, both in the judges and their procedure, which are necessary for the exercise of those now proposed to be given. We cannot but think that the objection to this extension of jurisdiction has arisen principally from its having been overlooked that it is only proposed to confer it where damages can now be recovered in an action; and where, therefore, strict legal rights are involved, and that the powers proposed to be conferred by the present bill are neither more nor less, in substance and degree, than those created by the act of 1854; the difference consisting simply in this, that they may be exercised before the mischief, instead of after it has commenced.

The only other instance in which authority is proposed to be given to a court of law, independently of a pending action, is the power to order the delivering up of documents which, on the face of them, appear to give a right of action at common law, but which, by reason of circumstances which, if an action were brought, would constitute a defence, ought not to be available, and, on the contrary, ought to be given up or cancelled.

The ground on which a party, liable to be prejudicially affected by such a document, has a claim to have it given up or cancelled, is, that the document, remaining in the hands of the opposite party, after all just claim to enforce it is gone, may one day be brought forward, after the evidence by which it would have been defeated has ceased to exist.

It is plain that power to afford relief from such a possibility, and to protect a person so circumstanced from having such a danger hanging over his head for years, ought to exist somewhere. It has hitherto been confined to courts of equity alone. The reasons for proposing to extend it to the courts of law are—first, that the documents in question would be enforceable in a court of law alone; secondly, that the matter of defence, on which the claim to have the document annulled arises, would be capable of being pleaded and tried at law if an action were brought upon it; thirdly, that the common-law procedure for trying the facts, if contested, is indisputably superior to that of a court of equity.

We have now passed in review the several cases of equitable jurisdiction proposed to be conferred by the bill. It remains for us to deal with a few general objections put forward against the measure as a whole.

The principal of these is founded on a misapprehension, which it is important to clear up. It seems to be supposed that equitable title to property is sought to be brought within the jurisdiction of the legal tribunals. This is evidently pointed at in the two cases prominently put forward in the objections of the equity judges, in which fraudulent plaintiffs with legal titles are supposed to bring ejectment in a court of law for the purpose of avoiding the discussion of adverse equitable rights before an equity court.

This is a very serious misapprehension. It overlooks the fact, that, with reference to equitable defences, the action of ejectment—the only action in which the right to real estate can be enforced—was not included in the act of 1854\*; and that, with the exception of the comparatively small matter of relief from forfeiture for non-payment of rent and for omitting to insure, this action is not proposed to be touched by the present bill. So large a proportion of property in this country being held in trust, and trusts being the peculiar province of courts of equity, however serious the inconvenience arising from the occasional conflict of jurisdiction may be, it is not proposed that powers should be given to courts of law to entertain equitable considerations on a trial of title. If our last Report be referred to, it will be seen that our recommendation as to the power to grant conditional relief is confined to cases in which equitable defences are already admissible, but in which the presence of a condition prevents the court from entertaining the plea. This, of course, does not apply to ejectment, in which no equitable plea is admissible. The present bill does not include ejectment, so far as title to property is concerned. The imaginary cases put forward by the equity judges as illustrative of the mischievous operation of the enlarged equitable jurisdiction could not therefore possibly arise†.

We cannot but think that much of the opposition offered to this measure has been founded on the notion that it was sought to withdraw by it questions upon equitable title to property from the jurisdiction of a

\* See *Neave v. Abery*, (24 L. J., C. B., 207; S. C., 16 C. B. 328).

† We may also here observe, in passing, that the third case put by the equity judges by way of objection—namely, that of an equitable mortgagor bringing detinue for deeds deposited by way of equitable mortgage, with a view to avoid a court of equity—is equally ill founded. The plaintiff would be defeated at law. The action could not be maintained under such circumstances.



court of equity. It is desirable that this misapprehension should be dispelled as speedily as possible. No such thing has been suggested, or is contemplated by the present measure. Of course, if it should be thought that the language of the bill leaves room for the possibility of a different construction, nothing would be more easy than so to frame the enactment as to limit its operation to the extent designed.

Another objection insisted on by the equity judges is, that a plaintiff, having a mere legal, as opposed to an equitable right, will now have a choice of courts, and will naturally take his cause to the court in which equity is the least likely to be well administered. Assuming for a moment the inferiority of the legal courts in dealing with equitable questions, (on which a word presently, we must be forgiven for observing that this argument rests on a fallacy. A plaintiff having only a legal right to insist on has no choice of courts; he can bring his action in a court of law alone. If he went to a court of equity, he would be told that, having a remedy at law, he had no business there. The position of such a plaintiff will nowise be altered. But let us look to the other side of the case. Take the case of an honest plaintiff bringing an action on a legal claim, which he believes to be well founded. Having brought his action in the only court to which he can resort, why, because his adversary sets up an equitable defence, is he to be forced to become defendant in a new suit before a different tribunal? Or take the perhaps still more striking case of a defendant in an action at law, having a defence on equitable grounds alone, which he is desirous of setting up in the court where the action is pending. Why is he to be driven to the necessity of going to a second court, and there instituting a second and more expensive suit? Why, if his equity depends on the performance of some condition, is he to be driven to another court to obtain the relief which performance of the condition might just as well secure to him in the first?

The equity judges assert that "no solid reason can be given" for the proposed transfer of jurisdiction. We, on the other hand, submit that abundant reason is to be found in all the evils attending on a double jurisdiction and a twofold litigation—two suits relating to the same subject-matter of dispute, in two separate courts, separate pleadings, separate sets of counsel, fresh fees of court—all the harassment, expense, and delay of a suit in Chancery needlessly superadded to the simpler proceeding of an action at law. Surely it cannot seriously be disputed, that if the necessity for resorting to a second court can be dispensed with—wherever justice can be done in one court and one suit—there is every reason for relieving the suitors from the inconvenience, the expense, and the delay of a double litigation.

We guard ourselves by saying, "where justice can be done." We readily admit that where what the objectors not inaptly term the "machinery" of the courts of common law is inadequate to deal with questions of equity, a sufficient reason exists for maintaining the divided jurisdiction. We admit that, to a certain extent, the objection to conferring equitable jurisdiction on the courts of law on this ground is well founded. But, to this extent, care has been taken that the jurisdiction shall not be exercised. The objection becomes unfounded and unjust when it overlooks a distinction which the framers of the bill have not been unmindful to observe. It is true, as is urged by the equity judges, that there are cases in which equitable rights cannot properly be determined without more parties being brought before the court than the parties immediately in presence in action at law. It is true that a court of law has no procedure for bringing such further parties before it. Possibly it may not be desirable that it should have. Actions to recover real property excepted, as to which the present question does not arise,

the cases which come before courts of law are seldom of sufficient magnitude to make the multiplying of parties desirable, as the so doing, however necessary in order to settle the rights of all concerned, has a natural tendency, except where great interests are involved, to bring about the result, that, by the time the rights of all parties concerned are adjusted, there remains but little to be divided amongst those who are found to be entitled. Be this as it may, the objection of the equity judges, founded on the inability of the common-law courts to bring other parties before them, has, as regards the present measure, no application. It is not proposed to admit equitable defences in cases to which the objection relates. By the operation of the 86th section of the Common-law Procedure Act of 1854, and the 12th clause of the present bill, courts of law will not be called upon to entertain questions of equity where the equitable rights of parties, other than the immediate parties to the action at law, are involved. It is suggested, indeed, that a court of law might fall into error in deciding whether, in any particular case, the equitable rights of other parties do or do not come into question. But it may be answered, first, that in the more simple cases of equity which present themselves in actions at law, no serious difficulty on this score is likely to arise; secondly, that the supposition that the judges would have any difficulty in deciding such a matter is an assumption of incapacity in them which ought not lightly to be made; thirdly, that the objection, if good for anything, would apply equally to the equitable pleas already permitted to be pleaded; lastly, that in the exercise of the existing jurisdiction no such difficulty has in point of fact been experienced.

*(To be concluded in our next number).*

#### COURT OF COMMON PLEAS.

TRINITY TERM.—23 VICTORIA.—June 6, 1860.

This Court will hold sittings in banc on Wednesday, the 20th, Thursday, the 21st, Friday, the 22nd, and Saturday, the 23rd days of June instant; and will deliver judgments on Saturday, the 7th of July next.

BY THE COURT.

#### COURT OF EXCHEQUER.

TRINITY TERM.—23 VICTORIA.—June 6, 1860.

This Court will hold sittings on Monday, the 18th, Tuesday, the 19th, Wednesday, the 20th, Thursday, the 21st, Friday, the 22nd, and Saturday, the 23rd days of June instant, and will at such sittings proceed in disposing of the business then pending in the paper of New Trials and in the Special Paper; and will also hold a sitting on Friday, the 6th day of July next, and will proceed in giving judgment in all matters then standing for judgment.

FREDERICK POLLOCK.  
SAMUEL MARTIN.  
G. BRAMWELL.  
W. F. CHANNELL.

COMMISSIONER FOR TAKING AND SWEARING AFFIDAVITS.—The Vice-Chancellor of the county palatine of Lancaster has appointed Frederick Augustus Lewis, Gent., of No. 7, Trafalgar-place East, Hackney-road, Shore-ditch, to be a Commissioner for taking and swearing affidavits to be read and made use of in the Court of Chancery of the county palatine of Lancaster, and in the Court of Session held in and for the said county palatine before justices, as well as Pleas of the Crown as of Common Pleas, and all manner of pleas whatsoever.

**JOHN TOWRY BURGON**, Backlersbury, City, wholesale hardwareman, June 23 at 12, and July 23 at half-past 11, London: Off. Ass. Pennell; Sols. Lewis & Watson, 25, Clement's-lane.—Pet. f. June 9.

**CHARLES HENRY GILKS**, Union-row, Tower-hill, and Wapping, Middlesex, ironmonger, June 22 at half-past 2, and July 24 at 12; London: Off. Ass. Lee; Sols. Walter & Moojen, 8, Southampton-street, Bloomsbury.—Pet. f. June 9.

**WALTER NOAK, JOHN NOAK, and JOHN BISSELL CLARK**, Droitwich, Worcestershire, salt manufacturers, (trading under the style or firm of W. & J. Noak), June 22 and July 12 at 11, Birmingham: Off. Ass. Kinnear; Sols. Dingnam & Ebsworth, Walsall.—Pet. f. June 9.

**EDWARD HAYLING COLEMAN**, Wolverhampton, Staffordshire, surgeon, June 25 and July 16 at 11, Birmingham: Off. Ass. Whitmore; Sols. Hayes, Wolverhampton; Hodgson & Allen, Birmingham.—Pet. d. June 11.

**SHIRLEY HALL**, Oldswinford, Worcestershire, carpenter, June 25 and July 16 at 11, Birmingham: Off. Ass. Whitmore; Sols. James & Knight, Birmingham; Harward, Stourbridge.—Pet. d. June 9.

**STEPHEN FAVELL**, Bourn, Lincolnshire, coach builder, June 26 and July 19 at half-past 11, Nottingham: Off. Ass. Harris; Sols. Maples, Nottingham.—Pet. d. June 8.

**JAMES HALL**, Monmouth, innkeeper, and Newland, Gloucestershire, brickmaker, June 26 and July 31 at 11, Bristol: Off. Ass. Acraman; Sols. Bevan & Co., Bristol.—Pet. f. June 8.

**GEORGE WILLIAM BRYANT KIALLMARK**, Puriton, Somersetshire, cement manufacturer, June 27 and July 25 at 1, Exeter: Off. Ass. Hirtzel; Sols. Turner & Hirtzel, Exeter.—Pet. f. May 28.

**JONATHAN COOKE**, Staincliffe, Batley, Yorkshire, joiner, July 2 and 30 at 11, Leeds: Off. Ass. Hope; Sols. Scholes & Son, Dewsbury; Bond & Barwick, Leeds.—Pet. d. June 11.

**THOMAS CRIGHTON**, now or formerly of Manchester, but latterly a prisoner for debt in the Gaol of Lancaster Castle, machinist, June 26 and July 12 at 12, Manchester: Off. Ass. Fraser; Sols. Hodgson, Manchester.—Pet. f. June 5.

**JOHN COOPER**, Manchester, commission agent and illuminated glass manufacturer, (under the style of the Patent Illuminated Glass Company), June 22 and July 12 at 12, Manchester: Off. Ass. Hernaman; Sols. Hulton & Brett, Salford.—Pet. f. June 7.

**JOSEPH BAILES**, Newcastle-upon-Tyne, leather seller, June 19 and July 20 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Joel, Newcastle-upon-Tyne; Pyke & Irving, 43, Lincoln's-inn-fields, London.—Pet. f. June 5.

#### MEETINGS.

**Wm. Strahan**, Sir John Dean Paul, Bart., and Robert M. Bates, Strand, Middlesex, bankers, June 30 at 11, London, pr. d. sep. est. of Sir John Dean Paul, Bart.—**John Axford** and **Charles Greenslade**, Bridgewater, Somersetshire, timber merchants, July 11 at 12, Exeter, last ex. and aud. ac.—**Wm. Smith**, South Shields, Durham, shipowner, June 20 at 1, Newcastle-upon-Tyne, last ex.—**Joshua Cawton** and **Edward Wood**, Bradford, Yorkshire, commission agents, July 5 at 11, Leeds, last ex.—**James Wenham**, Swaffham, Norfolk, watchmaker, June 30 at 11, London, aud. ac.—**Thomas Russell**, Northampton, linen draper, June 26 at 12, London, aud. ac.—**David Hughes**, Gresham-street, City, scrivener, June 23 at 11, London, aud. ac.—**John Burbidge**, Bristol, newspaper proprietor, July 5 at 11, Bristol, aud. ac.—**T. L. H. Leaman**, Paignton, Devonshire, attorney, June 25 at 1, Exeter, aud. ac.—**James Clayton** and **Bery. Lockwood**, Rastrick, Yorkshire, silk spinners, June 25 at 11, Leeds, aud. ac.—**Daniel Bishop Crick**, Leicester, builder, July 3 at half-past 11, Nottingham, aud. ac.—**S. W. Morgan**, Throgmorton-street, City, stockbroker, July 5 at half-past 11, London, div.—**John Andrew Stirton**, Chandos-street, Covent-garden, Middlesex, grocer, July 4 at 12, London, div.—**John Walker**, Upper Seymour-street, Edgware-road, Paddington, Middlesex, hotel keeper, July 4 at 12, London, div.—**William Kirk, John Wale, and John Kirk**, Mount-sarrel, Leicestershire, coal merchants, July 5 at 11, Nottingham, aud. ac. and div.—**James Merriman**, Hyson-green, Nottinghamshire, lace manufacturer, July 5 at 11, Nottingham, aud. ac. and div.—**Oliver Appleton**, Leicester, trimmer,

July 12 at 11, Nottingham, aud. ac. and div.—**James Henderson**, Nottingham, draper, July 12 at 11, Nottingham, aud. ac. and div.—**Francis Jolley** the younger, Stamford, Lincolnshire, brewer, July 12 at 11, Nottingham, aud. ac. and div.—**John Wyatt**, Chipping Campden, Gloucestershire, licensed victualler, July 5 at 11, Bristol, fin. div.—**Richard Hay**, North Shields, Northumberland, butcher, July 6 at half-past 12, Newcastle-upon-Tyne, fin. div.—**John Chapman**, Hartlepool, Durham, grocer, July 6 at 12, Newcastle-upon-Tyne, fin. div.—**James Wood**, Shude-hill, Manchester, cheese factor, July 4 at 12, Manchester, fin. div.

#### CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

**Tristram Penning**, Truro, Cornwall, grocer, July 4 at 1, Exeter.—**Charles Wilkes**, Bloxwich and Tipton, Staffordshire, miller, July 6 at 11, Birmingham.—**James Edward Claridge**, Hill Croome, Worcestershire, and Charlborough, Oxfordshire, drover, July 5 at 11, Birmingham.—**James Dowell**, Birmingham, licensed victualler, July 5 at 11, Birmingham.—**Mathias Edward Bowra**, Birmingham, manufacturer of patent elastic spring beds, July 6 at 11, Birmingham.—**Joseph Cope**, Longton, Staffordshire, china manufacturer, July 5 at 11, Birmingham.—**William Birt**, Liverpool, shoemaker, July 3 at 11, Liverpool.

*To be granted, unless an Appeal be duly entered.*

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X

## GAZETTES.—FRIDAY, June 15.

## BANKRUPTS.

**HENRY COOPER**, Great Cambridge-street, Hackney-road, and Pownall-terrace, Queen's-road, Dalston, Middlesex, shoe manufacturer, June 29 at half-past 12, and July 27 at 1, London: Off. Ass. Whitmore; Sols. Sole & Co., 68, Aldermanbury, London.—Pet. f. June 7.

**MORRIS COHEN**, Landport, Hampshire, dealer in glass, June 27 at 1, and July 30 at half-past 12, London: Off. Ass. Pennell; Sol. Solomon, 22, Finsbury-place, Finsbury, London.—Pet. f. June 11.

**WILLIAM ALBERT STAPLEY**, Old Compton-st., Soho, Middlesex, shoe mercer, June 28 at half-past 11, and July 25 at half-past 1, London: Off. Ass. Stansfeld; Sol. Stubbs, 46, Moorgate-street, London.—Pet. f. June 12.

**HENRY PRATT BALLARD** and **SAMUEL NEWSOME**, Coventry, ribbon manufacturers, June 29 and July 20 at 11, Birmingham: Off. Ass. Kinnear; Sols. James & Knight, Birmingham; Dewes, Coventry.—Pet. d. June 12.

**JOHN MOWBRAY**, Sherwood-rise, Radford, Nottinghamshire, miller, June 28 and July 19 at 11, Nottingham: Off. Ass. Harris; Sols. Hunt & Son, Weekday Cross, Nottingham.—Pet. d. June 12.

**CHARLES ALLEN**, Risca, Monmouthshire, grocer, June 26 and July 24 at 11, Bristol: Off. Ass. Acraman; Sols. Wood, Bristol; Bevan & Co., Bristol.—Pet. f. June 5.

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**JOSEPH FULFORD**, Manchester, brewer, June 28 and July 19 at 12, Manchester: Off. Ass. Hernaman; Sol. Gartsdale, Manchester.—Pet. f. May 5.

## MEETINGS.

*James McClure* the younger, Manchester, Manchester warehouseman, June 27 at 12, Manchester, pr. d.—*William Black*, Prospect House, St. James's-road, Holloway, Middlesex, builder, June 28 at 11, London, last ex.—*Henry Quarterman*, Oxford, builder, June 27 at half-past 12, London, aud. ac.—*James Green*, Northampton, builder, June 27 at 1, London, aud. ac.—*Charles Pavia*, Lime-street, City, merchant, June 27 at 12, London, aud. ac.—*Geo. Armitage*, Clement's-lane, City, iron merchant, June 27 at half-past 1, London, aud. ac.—*Samuel Bothwell*, Dorking, Surrey, builder, June 26 at 11, London, aud. ac.—*T. Lambert* the younger, Stowupland, Stowmarket, Suffolk, steam thrasher, June 26 at half-past 11, London, aud. ac.—*James Smith*, Fareham, Hampshire, grocer, June 27 at half-past 11, London, aud. ac.—*Geo. Riddale*, Gower-place, Euston-square, Middlesex, surgeon, June 27 at 1, London, aud. ac.—*Whitfield Morgan*, Throgmorton-st., City, sharebroker, June 28 at half-past 11, London, aud. ac.—*Panavotti Demetrius Leno*, Constantine Cambouroglu, and *Nicolas Antoniadis*, Great Winchester-street, City, merchants, June 29 at 11, London, aud. ac.; July 6 at half-past 11, div.—*Denis N. Vericchio*, Wellington-terrace, Paddington, Middlesex, upholsterer, June 26 at 11, London, aud. ac.—*John Robt. Roberts*, Crispin-street, Spitalfields, Middlesex, potato salesman, July 10 at 12, London, aud. ac.—*James W. Gray*, Shrewsbury Villas, Talbot-road, Paddington, Middlesex, builder, June 25 at 11, London, aud. ac.—*Thomas Sharp*, Aldershot, Southampton, hotel keeper, June 25 at 12, London, aud. ac.—*R. L. Cole*, late of Cornhill, and now of Lime-street, City, merchant, June 25 at half-past 12, London, aud. ac.—*H. Cooper*, Aldgate, City, grocer, June 25 at 1, London, aud. ac.—*G. C. Noble*, Northampton, builder, June 27 at 12, London, aud. ac.—*Wm. Sharp* the younger, New Broad-street, City, underwriter, June 27 at 12, London, aud. ac.—*John Ashby*, Carlisle-street, Soho-square, Middlesex, builder, June 27 at 1, London, aud. ac.—*James L. Anderson*, Cannon-street West, City, linen factor, June 25 at half-past 11, London, aud. ac.—*Augustus Brine*, Euston-road, St. Pancras, and Canal-road, Caledonian-road, Middlesex, stone merchant, June 27 at half-past 11, London, aud. ac.—*J. Underwood*, M'Lean's-

buildings, New-street-square, Shoe-lane, City, wholesale stationer, June 27 at half-past 12, London, aud. ac.—*J. Clayton*, Newport, Monmouthshire, grocer, July 5 at 11, Bristol, aud. ac.—*Thomas Lewis*, Abergavenny, Monmouthshire, ironmonger, June 28 at 11, Bristol, aud. ac.—*Josiah Harris*, Highweek, Devonshire, coal merchant, June 25 at 1, Exeter, aud. ac.—*John Slade* and *James T. Vining*, Yeovil, Somersetshire, attorneys and money scriveners, June 28 at 1, Exeter, aud. ac.; July 11 at 1, div. joint and sep. ests.—*Henry J. Rogers*, Callington, Cornwall, surgeon, June 25 at 1, Exeter, aud. ac.; July 9 at 1, div.—*William Pook*, Exeter, grocer, June 27 at 1, Exeter, aud. ac.; July 18 at 1, div.—*John Calverwell*, Washford Mills and Williton Mills, Somersetshire, miller, June 27 at 1, Exeter, aud. ac.; July 18 at 1, div.—*Antonio Calvocoressi*, Manchester, merchant, July 3 at 12, Manchester, aud. ac.; July 10 at 12, div.—*James Wood*, Manchester, cheese-factor, June 27 at 12, Manchester, aud. ac.—*Wm. Birt*, Liverpool, boot maker, June 25 at 11, Liverpool, aud. ac.—*Denis Eme Gauwin*, Liverpool, shipbroker, June 25 at 11, Liverpool, aud. ac.—*Wm. Knapton*, York, ironfounder, June 28 at 11, Leeds, aud. ac.—*George Pye*, Ipswich, Suffolk, flax dresser, July 9 at 12, London, div.—*John Jamieson*, Bishops-gate-street Without, City, sail cloth dealer, July 9 at 11, London, div.—*Robert Heywood*, High-street, Homerton, Middlesex, grocer, July 6 at 1, London, div.—*David Cahn*, Leadenhall-street, City, merchant, July 6 at half-past 12, London, div.—*George Wood*, Rayleigh, Essex, builder, July 10 at 12, London, div.—*John Allington*, Norwich, grocer, July 10 at 1, London, fin. div.—*James S. Spencer*, Great Russell-street, Bloomsbury, Middlesex, wine merchant, July 10 at 2, London, div.—*Henry Batchelor*, Mark-lane, London, and Bull Head Dock Wharf, Rotherhithe, Surrey, chemical manure manufacturer, July 10 at 1, London, div.—*S. Griffiths*, Wolverhampton, Staffordshire, broker, July 9 at 11, Birmingham, aud. ac. and div.—*Wm. Robert Baxter* and *Frederick George Baxter*, Birmingham, carriers, July 9 at 11, Birmingham, aud. ac. and div.—*Henry Collingbourne*, Foleshill, near Coventry, Warwickshire, ribbon manufacturer, July 9 at 11, Birmingham, div.—*William Lindop*, Newcastle-under-Lyme, Staffordshire, brush manufacturer, July 9 at 11, Birmingham, div.—*William Dampier-field*, Cheltenham, Gloucestershire, victualler, July 12 at 11, Bristol, fin. div.—*Edward Elliott*, Berwick-upon-Tweed, quarryman, July 10 at 12, Newcastle-upon-Tyne, div.—*Henry Bach*, Sheffield, Yorkshire, hosier, July 7 at 10, Sheffield, div.—*Henry Follett*, Dartmouth, Devonshire, ship builder, July 9 at 1, Exeter, div.—*William Adams Manning*, Totness, Devonshire, dealer in corn, July 9 at 1, Exeter, div.—*John Axford* and *Charles Greenalade*, Bridgwater, Somersetshire, timber merchants, July 25 at 1, Exeter, div.

## CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*Henry Coney*, Manchester-villas, Townshend-road, Regent's-park, Middlesex, builder, July 6 at half-past 1, London.—*William Stevens*, Three-crown-square, Southwark, Surrey, British wine merchant, July 6 at 12, London.—*James Smith Spencer*, Great Russell-street, Bloomsbury, Middlesex, wine merchant, July 10 at 2, London.—*Samuel Gostling*, Castle Acre, near Swaffham, Norfolk, butcher, July 10 at 1, London.—*John Underwood*, M'Lean's-buildings, New-street-square, Shoe-lane, City, wholesale stationer, July 9 at half-past 12, London.—*John Ashby*, Carlisle-street, Soho-square, Middlesex, builder, July 9 at 11, London.—*William Harris*, Stoke Prior, Worcestershire, hay dealer, July 6 at 11, Birmingham.—*Joseph Bell*, Liverpool, shipwright, July 6 at 12, Liverpool.

*To be granted, unless an Appeal be duly entered.*

*Miles Beale*, Gray-street, Poplar, Middlesex, iron founder.—*Anthony Barnaschina*, Gravesend, Kent, general dealer.—*Richard Lockington Cole*, Lime-street, City, merchant.—*James Newton*, Grosvenor-park, South Camberwell, Surrey, hop merchant.—*William Dray*, Farningham, Kent, farmer.—*David Cahn*, Leadenhall-street, City, merchant.—*Peter Taylor*, Saffron Walden, Essex, licensed victualler.—*Henry Smart*, Gloucester, printer.—*John Lowe*, Cheltenham, Gloucestershire, printer.—*Wm. Pook*, Exeter, grocer.—*Eleanor Slader*, Bridport, Dorsetshire, grocer.—*John Webster*, Wavertree, near Liverpool, joiner.—*William Moncrieff Bell*,

[For continuation of Gazette, see p. 243.]



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THE JURIST.

LONDON, JUNE 23, 1860.

We attempted in our last number a brief historical outline of the privileges of the two branches of the Legislature as to the imposition of taxes. We are now to consider the question in controversy between the two Houses.

It being a fundamental principle of the constitution that "no subject of England can be constrained to pay any aids or taxes, even for the defence of the realm or the support of Government, but such as are imposed by his own consent or that of his representatives in Parliament," (1 Bl. Com. 140), to preserve which principle intact the Commons enjoy the exclusive right of originating money bills; and it being conceded that the Lords cannot amend or alter such bills, the question arises, have the Peers violated these principles by rejecting a bill for the repeal of an excise duty passed by the House of Commons? It is asserted that the rejection of the Paper Duty Repeal Bill by the Lords is in fact the imposition of a tax upon the people without their consent. In reply to those who argue, that inasmuch as a bill for the repeal of a tax cannot become law until assented to by the Lords, and that the very fact of their assent being necessary implies their right to reject, it is rejoined that the right of the Lords to impose their veto on a money bill is a mere technical right; that they are compelled to assent to such bill when sent up from

the Commons, in the same manner as when a congé d'elire issues from the Sovereign for the election of a bishop, the chapter is bound to appoint the person nominated by the Crown. If this be a correct and legal view of the functions of the Upper House, the power of that House, as to money bills, is reduced to a nullity.

To assert that the Lords cannot reject a money bill is, in effect, to maintain that the Lords are only to register the taxation edicts of the House of Commons, as the ancient Parliaments of France were compelled to register the ordinances of their Sovereign. There are not to be found on the rolls of Parliament any precedents, nor in the writings of any constitutional lawyer any dicta, for so extraordinary a proposition. Except when the House of Lords was voted useless, and abolished by the Long Parliament, this is the first occasion that such an unconstitutional doctrine has been enunciated by statesmen and lawyers. Its tenability cannot be admitted; for it would be not only an infringement of parliamentary law, but a violation of the principle of the constitution, that no tax shall be levied except with the assent of the taxpayer. The 25 Edw. 1, cc. 5, 6, and 7, and the statute "De Tallagio non Concedendo," (34 Edw. 1), which are legislative acts granting or confirming the right of self-taxation, do not enact that no talliage or aid shall be taken without the assent of the Commons of England only, but without "the goodwill and assent of the archbishops, bishops, earls, barons, knights, burgesses, and other freemen of the land." The petition of right and the bill of rights do not prohibit

the levying of taxes without the consent of the *Commons only*, but without the consent of *Parliament*.

If the right of the Lords to reject a money bill be only a technical right, which they ought no longer to exercise, it follows that the Commons can tax the estates of the Peers without their assent—a proceeding directly contrary to the statutory enactments just quoted, and to the very spirit of the constitution. Lord Cranworth's statement, in his speech in reply to Lord Lyndhurst, that there never has been since the Revolution an instance of the Lords rejecting a bill for the repeal of a tax, is quite beside the question. The Revolution did not make any alteration in the relative position of the two Houses towards each other. The Revolution settled the relationship between the Crown and the Parliament, limiting the prerogative of the Sovereign, and defining the liberties of the subject. The precedents relating to money bills found on the journals of the two Houses prior to the Revolution are as valid as those which have been entered thereon subsequent to that great event. The entry on the parliamentary rolls of the reign of Henry IV, quoted in our last number, while protesting against the right of the Lords to originate an impost, expressly asserts, without any reservation, the right of the Peers to consider and assent to the same before it becomes law; the words being, "that neither the Lords on their part, nor the Commons on their part, shall make any report to our lord the King concerning any grant granted by the Commons, and assented to by the Lords, nor any communication relative to the said grant, before the same Lords and Commons be of the same assent and agreement concerning it." It is difficult to conceive how the learned editor of the Parliamentary Remembrancer could construe this entry on the parliamentary rolls as a precedent against the right of the Lords to veto a money bill, or consider the attempt of the Lords in 1407 to *originate* a bill for prolonging a tax upon wool analogous to the *refusal* of the Lords in 1860 to sanction the repeal of an excise duty. (Vide 3 Parl. Remem. 126). But the most important entry on the journals upon this subject is the following resolution of the Commons passed in 1689, after the Revolution, which was referred to in our first article; in this resolution the Commons enumerate all their privileges as to money bills, but distinctly admit the Lords' right to reject the same:—"All money aids and taxes to be raised or charged upon the subjects in Parliament are the gift and grant of the Commons in Parliament, and are, and always have been, and ought to be, by the constitution and ancient course and laws of Parliament, and by the ancient and undoubted rights of the Commons of England, the sole and entire gift, grant, and present of the Commons in Parliament, and to be laid, rated, raised, and paid for the public service and use of the Government as the Commons shall direct, limit, and appoint, and modify the same; and the Lords are not to alter such gift, grant, limitation, appointment, or modification of the Commons in any part or circumstance, or otherwise to interfere in such bills than to pass or *reject the same* for the whole, without any alteration or amendment, though in ease of the subjects. As the Kings and Queens, by the laws and constitution of

Parliament, are to take all or to leave all in such gifts, grants, and presents from the Commons, and cannot take part and leave part, so are the Lords to pass all or *reject all*, without diminution or alteration." (Com. Jour., May 16, 1689). The legal rules for the interpretation of written instruments, being founded on strict logical principles, may be applied to the construction of this entry on the journals. If this resolution, after enumerating certain privileges of the Commons relative to a particular subject, and denying certain rights claimed by the Lords, had not admitted the power of the Lords to exercise a particular right, acting upon the well-known maxim, "*expressum facit cessare laticum*," (Co. Litt. 210. a.), it would follow, that inasmuch as certain disabilities of the Lords were enumerated in that declaration, it impliedly exempts them from all others, and then even the admission of the Commons of the right of the Lords to reject money bills could not have been denied; *a fortiori* when the Commons, after expressly enumerating their privileges, distinctly admit the right of the Lords.

It is contended by some, that although the Lords may reject a bill for the creation of a tax, yet to veto a bill passed by the Commons for the repeal of a duty is in fact to impose a tax upon the people without the consent of their representatives. It may be answered, first, that the right of the Lords to reject a money bill being admitted, not any precedent is to be found in the rolls of Parliament, or on the journals of either House, for the limiting the exercise of this right. Secondly, that on several occasions the Lords have rejected bills for the abolition of taxes. It may be that some of the precedents cited by Lord Lyndhurst are not applicable, inasmuch as the bills cited therein may have been thrown out by the Lords because they contained clauses infringing the privileges of their House; but one of the cases quoted by that learned Peer is unanswerable. In 1811 a bill to suspend for one year the duties on corn, and to permit distillation from molasses, having passed the Commons, was thrown out by the Lords. Here is a case very analogous to the Paper Duty Abolition Bill. It appears that the rejection of this measure was brought under the notice of the Commons by the then Minister, who proposed to introduce some other financial measure in consequence thereof. Not the slightest attempt at a protest appears to have been made by the Commons. In discussing this measure we have nothing to do with the motives or reasons which may have induced the Minister to introduce and the Lords to reject this bill respecting corn and molasses. It is only necessary to point out the *fact* of a bill for relief from taxation having been rejected in 1811 by the Lords without any remonstrance from the Commons. Surely it cannot be argued that the Commons, always so jealous of any interference with their privileges, that bills, though of a local character, have been thrown over the table by them because the Lords had ventured to amend some clause imposing a rate or toll, would have tamely acquiesced in the rejection of the bill of 1811 had they so much as imagined that their most valued privilege had been trespassed upon. But it is said by some that the Lords may exercise the veto, and reject a bill for the repeal of a tax, if the same was originally imposed for commercial or economical, and not for revenue purposes. Thus, they might have rejected the bill for the abolition of the duty on corn, which was levied for the protection of the agricultural interest,



but they ought not to have placed their veto on the repeal of the paper duty, that tax having been imposed solely for fiscal purposes. If this were to become a rule of parliamentary law, it is impossible to imagine a device more happily conceived for perpetuating animosities between the two Houses. As all money bills originate with the Commons, is the mere fact of that House declaring a tax, to be raised for the purpose of revenue only, to have the effect of ousting the Lords of their veto? Nothing more likely than that the two Houses should differ as to the object for which an impost is created. It is a maxim of parliamentary law, "that whatever matter arises concerning either House of Parliament ought to be examined, discussed, and argued in that House to which it relates." (1 Bl. Com. 163). Each House will interpret a money bill for itself, and if differences were to arise as to its nature and purpose, what power in the State could act as arbiter? The distinction is against precedent, and inasmuch as it would be impossible to carry it out, it cannot be deemed law, for "lex non intendit aliquid impossibile." The argument, that the rejection by the Lords of a bill for the repeal of a tax is *ipso facto* the imposition of a burthen upon the people without their consent, may appear plausible; but, if examined, is fallacious. Taxes are either imposed for a limited or for an indefinite period. If a duty be imposed for a limited time, at the expiration of that time it ceases, and can only be re-imposed by an act passed for that purpose. If, on the other hand, it be deemed expedient, for reasons of State, to make some of the taxes permanent imposts, as the land and assessed taxes, the custom and excise duties, &c., the very fact of the imposition of such taxes being only capable of being accomplished by an act of Parliament, which must receive the assent of the Lords before it becomes law, it follows, that inasmuch as the Commons, by granting a permanent tax, impliedly sanctions its continuance until both they and the Lords assent to its repeal, the people, through their representatives, must be taken not only to sanction the imposition of such permanent tax, but to consent to its being levied until abolished by both Lords and Commons; for "*Nihil tam conveniens est naturali æquitati quàm unumquodque dissolvi eo ligamine quo ligatum est*" (2 Inst. 359) is a maxim of constitutional as well as of common law. The Commons, once having consented to a bill for levying a tax for an indefinite period, know that when such bill becomes law, the tax remains obligatory until repealed by the same authority that enacted it—an act of Parliament, and not a resolution of the House of Commons.

### LAW AND EQUITY BILL.

*Memorial of the Common-law Commissioners respecting the Law and Equity Bill. Addressed to the Lord Chancellor.*

(Concluded from p. 230).

The question as to the adequacy of the "machinery" of the common-law courts being thus reduced to its proper limits, we have no hesitation in affirming that the procedure of these courts, enlarged and amended as it has been in modern times, is abundantly sufficient to enable them to exercise the powers proposed in a perfectly satisfactory manner.

With reference to matters of equity brought forward in pleading, no question as to the adequacy of the procedure can arise. The facts on which the equity arises being set forth in the pleading, the effect of them, if admitted, is at once for the court. If not admitted, the facts will be tried by a jury in the ordinary way. And it may be here incidentally observed, that if in the same action there should also be issues of fact relating

to matter of common law to be tried, it is more convenient that both sets of issues should be tried and disposed of in the same inquiry, than that one set of facts should be tried in a court of law, the other in a court of equity. No one, we apprehend, will question the superiority of the common-law procedure over that of equity for the trial of issues of fact; and it may be observed in passing, that as, in the discussion of questions of equity, whosoever they may be raised, questions of disputed fact will frequently arise, this superiority of the common-law procedure for the decision of questions of fact is so far in favour of the transfer of jurisdiction.

As regards equitable matters arising on application to the court, as for relief on conditional equity, or for protection of property, either on apprehended injury or during the pendency of an action, the efficiency of the machinery cannot seriously be questioned. The application would be by motion founded on an affidavit setting forth the facts. If any difficulty should arise in the ulterior stages of the discussion, the court would have ample means of completing the inquiry by an issue, or reference to a Master. The only difference, we apprehend, between such a proceeding and that of a court of equity would be, that the latter would require a written or printed statement of the case, which would be echoed by an affidavit. The common-law process, while it is equally efficacious, is the simpler and less expensive of the two.

The question of the competency of the common-law judges to administer equity is one on which, for obvious reasons, we are reluctant to touch. We may, however, be permitted to observe, that in the simpler questions of equity which are likely to come before courts of common law we cannot anticipate any serious difficulty. While, on the one hand, it may be admitted, that where more complicated rights are involved, such as arise upon intricate questions of real property, of trusts, the administration of estates, and the like, the principles and rules of equity constitute an elaborate and special system of jurisprudence, a perfect knowledge of which it may require special study and practice to acquire, yet it must not be forgotten that one of the principal merits of this system is, that its leading rules—at least, where unembarrassed in their application by the intricacies and subtleties of real property law—rest on the plain and simple principles of rational justice, as distinguished from the more technical and arbitrary rules of positive law.

More especially is this the case with reference to the grounds on which equity relieves against legal rights sought to be enforced in actions at law. To suppose that common-law judges or practitioners either are unacquainted with or will be unable to master a system so simple, would seem to be a gratuitous and unwarranted assumption. No such difficulty has hitherto arisen in administering the powers either of auxiliary or substantive equity heretofore conferred. So far as we are aware, one instance only has occurred of an appeal from the decision of any court of law on an equitable plea, and in that instance the appeal was unsuccessful.

We believe the apprehension of incompetency in this respect to be wholly unfounded. The large knowledge of the law essential to the administration of equity has never been questioned in equity judges; and we are at a loss to understand why credit should not be given to common-law judges for capacity to possess a corresponding knowledge of equity in the limitation of legal rights. When we reflect how many of the great equity judges who have presided in the Court of Chancery and in the House of Lords have been taken from the common-law courts, we are surprised that capacity should be denied to the collective ability of the common-law judges, assisted by a Bar inferior to none in learning and attainments, to deal with the simple questions of

equity which are likely to arise incidentally in proceedings at law.

Before we quit this subject we must advert to an argument prominently put forward, namely, that the effect of thus conferring equitable jurisdiction on common-law courts will be to restore in substance the ancient equity jurisdiction of the Court of Exchequer, abolished in recent times by the Legislature. That this view of the matter is altogether erroneous may readily be shewn. It assumes that the jurisdiction of the Court of Exchequer as a court of equity was exercised by it incidentally to proceedings pending before it as a court of law. Nothing can be more incorrect. The Court of Exchequer in equity was as distinct from the Court of Exchequer as a court of common law, as the Court of Exchequer now is from the Court of Chancery. The jurisdiction was distinct; all suits were distinct; the procedure was distinct; the officers of the court were not the same; the practitioners were a separate and distinct class. A party seeking protection, or relief from an action pending on the common-law side of the court, was obliged to file a bill in equity, and was in all respects in the same position as if he had gone into Chancery. All the evils of the double jurisdiction arose, without any of those benefits which may be anticipated from enabling full justice to be administered in a single court. Other causes, therefore, making it desirable that the Court of Exchequer as a court of equity should be done away with, its abolition took place, but without the slightest reference to any inconvenience arising from a blending of jurisdiction such as is now proposed. To represent the two cases as analogous is to confound things essentially distinct, and having nothing in common but a name.

Lastly, as to the objection taken to the measure with reference to the proposed court of appeal. It is said, "The appeal is to be, to a court of error—a very competent tribunal for determining the points of law which remain when a jury has solved the questions of fact, but rigid in the extreme in its rules of procedure, and utterly incompetent to dispose of the mixed questions of fact and law that continually arise on appeals from courts of equity." We have here, again, a serious misapprehension. It is assumed that the Court of Exchequer Chamber—the proposed court of appeal—will be simply a court of error in the strict sense of the term; that is to say, a court confined to error appearing on the face of the record, and bound by some rules of procedure differing from those of the court in which the proceedings originated. This is an entire mistake. The Court of Exchequer Chamber, when exercising the appellate functions conferred upon it by the recent Procedure Acts, is no longer a mere court of cassation. It is a court of appeal in the fullest sense of the term; that is to say, it is invested with all the powers, both as to substantive law and procedure, which are possessed by the court from which the appeal comes, and can even draw inferences of fact where the court below could do so.

While upon this subject we cannot but express our surprise that the objectors should have overlooked the fact, that from the decisions of the Court of Exchequer Chamber on appeal there is an ulterior appeal to the House of Lords, where the presence of so many equity authorities will secure the correction, if necessary, of the decisions of the common-law tribunals, and insure the administration of equity according to its established and undoubted rules.

We conceive that we have thus made good the propositions which we undertook to establish—that, starting from the incontestable position that every court should have power to carry on a suit properly commenced in it to final adjudication and completion, as also to protect rights which are clearly within the com-

pass of its jurisdiction, we have shewn that the powers which it is proposed to confer on the common-law courts are essentially necessary to this end; that they have been already partially given, and so far beneficially exercised; and, lastly, that, so far as it is now proposed to go, the procedure will be fully equal to the purpose.

The equity judges declare that "no attempt should be made to alter our tribunals until a careful revision has been made of our whole law." But is not this to put off the work to the Greek kalends? We readily agree that the bringing the conflict of law and equity into unison would be better dealt with as a part of the substantive than of the ancillary law, and would be best effected by abrogating from the body of our law rights which ought not to be, and which equity does not allow to be, enforced, instead of by seeking to attain the end by a fusion of jurisdiction and procedure. But who is there among us so sanguine as to expect that this great work of the revision of the whole body of our law will be undertaken, much less accomplished, in our days? In the meantime, the suitor, bandied to and fro from law to equity, and from equity to law, suffers what he feels and knows to be (with whatever complacency legal practitioners may from habit be brought to look on the matter) a practical and substantial grievance. To whatever extent, though it may be but a partial one, that grievance can be abated—to whatever extent the great desideratum of uniformity in the law, as administered by the judicial tribunals of this country, can be effected—to that extent, at least, the practical good should be secured, although the means resorted to may not be such as a scientific jurist might deem the most eligible. At all events, if any immediate, though but partial, remedy can be applied, it would surely be unwise to refuse to accept it because it is not presented as a part of a general revision of the whole body of our laws, of which no reasonable hope presents itself even in the indefinite future.

We have the honour to remain, my Lord,

Your obedient and faithful servants,

A. E. COCKBURN.

SAMUEL MARTIN.

G. BRAMWELL.

The Right Hon. the Lord Chancellor.

### Court Papers.

EQUITY SITTINGS, AFTER TRINITY TERM,  
1860.

#### Court of Chancery.

Before the LORD CHANCELLOR.

At Lincoln's Inn.

Tuesday....	June 10	First Seal.—Appeal Motions and Appeals.
Wednesday .....	20	Petitions and Appeals.
Thursday .....	21	
Friday .....	22	
Saturday .....	23	Appeals.
Monday.....	25	
Tuesday.....	26	
Wednesday ....	27	Second Seal.—Appeal Motions and Appeals.
Thursday .....	28	
Friday .....	29	
Saturday .....	30	Appeals.
Monday....	July 2	
Tuesday.....	3	
Wednesday ....	4	Third Seal.—Appeal Motions and Appeals.
Thursday .....	5	
Friday .....	6	
Saturday .....	7	Appeals.
Monday.....	9	
Tuesday.....	10	

Wednesday .....	11	{ Fourth Seal.—Appeal Motions and Appeals.
Thursday .....	12	{ Appeals.
Friday .....	13	
Saturday .....	14	
Monday .....	16	
Tuesday .....	17	{ Fifth Seal.—Appeal Motions and Appeals.
Wednesday .....	18	
Thursday .....	19	
Friday .....	20	
Saturday .....	21	{ Petitions and Appeals.
Monday .....	23	
Tuesday .....	24	
Wednesday .....	25	
Thursday .....	26	{ Sixth Seal.—Appeal Motions and Appeals.

*Notice.*—Such days as his Lordship shall be engaged in the House of Lords are excepted.

*Before the LORDS JUSTICES.*

*At Lincoln's Inn.*

Tuesday.... June 19	{ First Seal.—Appeal Motions and Appeals.
Wednesday .... 20	{ Appeals.
Thursday .....	
Friday .....	{ Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Saturday .....	{ Appeals.
Monday .....	
Tuesday .....	{ Second Seal.—Appeal Motions and Appeals.
Wednesday .... 27	
Thursday .....	{ Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Friday .....	
Saturday .....	{ Appeals.
Monday .... July 2	
Tuesday .....	{ Third Seal.—Appeal Motions and Appeals.
Wednesday .... 4	
Thursday .....	{ Appeals.
Friday .....	
Saturday .....	{ Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Monday .....	
Tuesday .....	{ Appeals.
Wednesday .... 11	
Thursday .....	{ Fourth Seal.—Appeal Motions and Appeals.
Friday .....	
Saturday .....	{ Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Monday .....	
Tuesday .....	{ Appeals.
Wednesday .... 18	
Thursday .....	{ Fifth Seal.—Appeal Motions and Appeals.
Friday .....	
Saturday .....	{ Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Monday .....	
Tuesday .....	{ Appeals.
Wednesday .... 25	
Thursday .....	{ Sixth Seal.—Appeal Motions and Appeals.

*Notice.*—The days (if any) on which the Lords Justices shall be engaged in the full Court, or at the Judicial Committee of the Privy Council, are excepted.

*Before the MASTER OF THE ROLLS.*

*At Chancery-lane.*

Tuesday.... June 19	{ First Seal.—Motions.
Wednesday .... 20	
Thursday .....	
Friday .....	

Saturday .....	23	{ Petitions, Short Causes, Adjourned Summonses, and General Paper.
Monday.....	25	
Tuesday.....	26	{ General Paper.
Wednesday ....	27	
Thursday .....	28	{ Second Seal.—Motions.
Friday .....	29	
Saturday .....	30	{ Petitions, Short Causes, Adjourned Summonses, and General Paper.
Monday .... <i>July</i> 2	2	
Tuesday.....	3	{ General Paper.
Wednesday ....	4	
Thursday .....	5	{ Third Seal.—Motions.
Friday .....	6	
Saturday .....	7	{ Petitions, Short Causes, Adjourned Summonses, and General Paper.
Monday.....	9	
Tuesday.....	10	{ General Paper.
Wednesday ....	11	
Thursday .....	12	{ Fourth Seal.—Motions.
Friday .....	13	
Saturday .....	14	{ Petitions, Short Causes, Adjourned Summonses, and General Paper.
Monday.....	16	
Tuesday.....	17	{ General Paper.
Wednesday ....	18	
Thursday .....	19	{ Fifth Seal.—Motions.
Friday .....	20	
Saturday .....	21	{ Petitions, Short Causes, Adjourned Summonses, and General Paper.
Monday.....	23	
Tuesday.....	24	{ Remaining Petitions and General Paper.
Wednesday ....	25	
Thursday .....	26	{ Sixth Seal.—Motions.

*Notice.*—At the Sittings after Trinity Term, the MASTER OF THE ROLLS will hear Further Considerations, (in priority to original Causes), Petitions, and Adjourned Summonses every Saturday.

The Unopposed Petitions will be taken first, and must be presented and copies left with the Secretary on or before the Thursday preceding the Saturday on which it is intended they should be heard.

*Before the Vice-Chancellor Sir RICHARD T. KINDERSLEY.*

*At Lincoln's Inn.*

Tuesday.... June 19	{ First Seal.—Motions and General Paper.
Wednesday .... 20	{ General Paper.
Thursday .....	
Friday .....	{ Petitions.
Saturday .....	{ Short Causes, Adjourned Summonses, and General Paper.
Monday .....	{ General Paper.
Tuesday .....	
Wednesday .... 27	{ Second Seal.—Motions and General Paper.
Thursday .....	{ General Paper.
Friday .....	
Saturday .....	{ Short Causes, Adjourned Summonses, and General Paper.
Monday .... July 2	{ General Paper.
Tuesday .....	
Wednesday .... 4	{ Third Seal.—Motions and General Paper.
Thursday .....	{ General Paper.
Friday .....	
Saturday .....	{ Short Causes, Adjourned Summonses, and General Paper.
Monday .....	{ General Paper.
Tuesday .....	
Wednesday .... 11	{ Fourth Seal.—Motions and General Paper.
Thursday .....	{ General Paper.
Friday .....	
Saturday .....	{ Short Causes, Adjourned Summonses, and General Paper.
Monday .....	{ General Paper.
Tuesday .....	

Wednesday	18	{ Fifth Seal.—Motions and General Paper.
Thursday	19	{ General Paper.
Friday	20	{ Petitions.
Saturday	21	{ Short Causes, Adjourned Summonses, and remaining Petitions.
Monday	23	{ Remaining Petitions and General Paper.
Tuesday	24	{ Paper.
Wednesday	25	{
Thursday	26	{ Sixth Seal.—Motions.

*Notice.*—At the Sittings after Trinity Term, the VICE-CHANCELLOR will hear Further Considerations in priority to original Causes.

*Before the Vice-Chancellor Sir JOHN STUART.*

*At Lincoln's Inn.*

Tuesday	June 19	{ First Seal.—Motions and General Paper.
Wednesday	20	{ General Paper.
Thursday	21	{
Friday	22	{ Petitions and General Paper.
Saturday	23	{ Short Causes and General Paper.
Monday	25	{ General Paper.
Tuesday	26	{
Wednesday	27	{ Second Seal.—Motions and General Paper.
Thursday	28	{ General Paper.
Friday	29	{ Petitions and General Paper.
Saturday	30	{ Short Causes and General Paper.
Monday	July 2	{ General Paper.
Tuesday	3	{
Wednesday	4	{ Third Seal.—Motions and General Paper.
Thursday	5	{ General Paper.
Friday	6	{ Petitions and General Paper.
Saturday	7	{ Short Causes and General Paper.
Monday	9	{ General Paper.
Tuesday	10	{
Wednesday	11	{ Fourth Seal.—Motions and General Paper.
Thursday	12	{ General Paper.
Friday	13	{ Petitions and General Paper.
Saturday	14	{ Short Causes and General Paper.
Monday	16	{ General Paper.
Tuesday	17	{
Wednesday	18	{ Fifth Seal.—Motions and General Paper.
Thursday	19	{ General Paper.
Friday	20	{ General Petition Day.
Saturday	21	{ Short Causes and remaining Petitions.
Monday	23	{ Remaining Petitions and General Paper.
Tuesday	24	{ Paper.
Wednesday	25	{
Thursday	26	{ Sixth Seal.—Motions.

*Notice.*—At the Sittings after Trinity Term, the VICE-CHANCELLOR will hear Further Considerations in priority to original Causes.

*Before the Vice-Chancellor Sir W. P. WOOD.*

*At Lincoln's Inn.*

Tuesday	June 19	{ First Seal.—Motions and General Paper.
Wednesday	20	{
Thursday	21	{ General Paper.
Friday	22	{
Saturday	23	{ Petitions, Short Causes, and General Paper.
Monday	25	{ General Paper.
Tuesday	26	{
Wednesday	27	{ Second Seal.—Motions and General Paper.
Thursday	28	{ General Paper.
Friday	29	{
Saturday	30	{ Petitions, Short Causes, and General Paper.
Monday	July 2	{ General Paper.
Tuesday	3	{

Wednesday	4	{ Third Seal.—Motions and General Paper.
Thursday	5	{ General Paper.
Friday	6	{
Saturday	7	{ Petitions, Short Causes, and General Paper.
Monday	8	{ General Paper.
Tuesday	10	{
Wednesday	11	{ Fourth Seal.—Motions and General Paper.
Thursday	12	{ General Paper.
Friday	13	{
Saturday	14	{ Petitions, Short Causes, and General Paper.
Monday	16	{ General Paper.
Tuesday	17	{
Wednesday	18	{ Fifth Seal.—Motions and General Paper.
Thursday	19	{ General Paper.
Friday	20	{
Saturday	21	{ General Petition Day and Short Causes.
Monday	23	{ Remaining Petitions and General Paper.
Tuesday	24	{ Paper.
Wednesday	25	{
Thursday	26	{ Sixth Seal.—Motions.

*Notice.*—At these Sittings the VICE-CHANCELLOR will hear such Further Considerations as are in the printed list, (in priority to original Causes); and after the Sixth Seal, Motions and remaining Petitions only will be heard.

### EQUITY CAUSE LISTS, AFTER TRINITY TERM, 1860.

\* \* The following abbreviations have been adopted to abridge the space the Cause Papers would otherwise have occupied:—*A.* Abated—*Adj.* Adjourned—*A. T.* After Term—*Ap.* Appeal—*C. D.* Cause Day—*Cl.* Claim—*C. Costs*—*D.* Demurrer—*E.* Exceptions—*F. C.* Further Consideration—*F. D.* Further Directions—*M.* Motion—*M. D.* Motion for Decree—*P. C.* Pro Confesso—*Pl.* Plea—*Ptn.* Petition—*R.* Rehearing—*S. O.* Stand Over—*Sh.* Short.

*Before the LORD CHANCELLOR and the LORDS JUSTICES.*

APPEALS.	
Hancock v. Bewley (W., Mar. 7, part heard) <i>L. J.</i>	Holderness v. Rankin (R., May 31)
Cooper v. Cartwright (W., April 17) <i>Full Court</i>	Whalley v. Whalley (W., June 1)
Bradstock v. Whalley (R., April 26)	Remnant v. Hood (R., June 1)
Walters v. Morgan (W., April 30)	Chalmers v. North (R., June 1)
Cooper v. Cartwright (W., May 4) <i>Full Court</i>	Brown v. Jarvis (W., June 2)
Namur & Liege Railway Co. v. Ponsford (W., May 7, part heard) <i>L. C.</i>	Wearing v. Courtenay (R., June 2)
Sturgis v. Morse (R., May 7)	Jenner v. Jenner (S., June 7)
Kendall v. Masters (W., May 18, part heard) <i>L. C.</i>	Pearson v. Benson (R., June 8)
Dudley and West Bromwich Railway Co. v. Spittle (W., May 26)	Longmate v. Ledger (S., June 11)
Low v. King (R., May 28)	Rogers v. Tudor (S., June 12)
Perry v. Parkinson (S., May 29)	Turner v. Wright (W., June 13)
	Walker v. Walker (W., June 14)
	Wall v. Cockerell (R., June 15).

*Before the Right Hon. the MASTER OF THE ROLLS.*  
CAUSES, &c.

Eland v. Baker (F C, pt. hd.)	Bright v. Legerton (M D)
Bankart v. Bankart (Cause, part heard)	Thomas v. Rawlings (M D)
Brown v. Harte (Cause)	Att.-Gen. v. Brooke (F C) June 20
Atkinson v. Hicks (M D) June 20	Rattledge v. Butler (M D)
In re Martin's Estate } (F C)	Ingle v. Richards (F C, 2 Summonses to vary certifi.)
Seccombe v. Edwards } (F C)	Carr v. Living (F C)

Carr v. Living (F C)  
Southgate v. Southgate (Cau.)  
Barling v. Bishopp (Cause)  
Glover v. Croll (Cause)  
Bank of London v. Tyrrell (F C)  
Hornby v. Wilks (F C)  
Langham v. Reynolds (M D)  
Hill v. Mount (M D)  
Hemsworth v. Campbell (F C)  
Townsend v. Early (F C)  
In re Townsend's Estate } Sum. to vary certif.  
Goldieutt v. Town- }  
end }  
Stansfield v. Wyatt (F C)  
Tomkyns v. Blaine (M D)  
Trezevant v. Broughton (F C)  
Randall v. Elford (F C)  
Edwards v. Mitcheson (F C, Summons to vary certif.)  
Newman v. Austen (M D)  
Boys v. Boys (M D)  
Knight v. Roskell (M D)  
Holderness v. Lampert (Cau.)  
Kendall v. Hill (M D)  
Steward v. Brightwell (F C)  
Crosbie v. Guion (F C)  
Parkinson v. Davies (F C, Summons to vary certif.)  
Pearce v. Spencer (F C, 4 Summons to vary certif.)  
Fox v. Taylor (F C)  
Swift v. Swift (F C)  
Leigh v. Mosley (M D, Ptn)  
Pease v. Cheesbrough (F C)  
Proby v. Landor (M D)  
Lupton v. Wood (M D)  
Frogley v. Phillips (F C)  
Mellersh v. Keen (F C, Summons to vary certificate)  
Steele v. Waller (M D)  
Wade v. East India Co. (M D)  
Matthews v. Williams (M D)  
Evans v. Lewis (F C)  
Fitzsimons v. Fitzsimons (F C)  
Maughan v. Glennan (M D)  
Perry v. Howells (F C, Summons to vary certificate)  
Weedon v. Glover } (F C)  
Glover v. Weedon }

Potts v. Hawkins (M D)  
Buckley v. Whitehead (Cau.)  
Danby v. Danby (F C)  
Childers v. Eardley (M D)  
Ashton v. Jones (Sp. case)  
Grosvenor v. Sherratt (Cause)  
In re Ward } (F C, adj.)  
Gordon v. Duff } from cham.  
Raikes v. Boulton (F D, C)  
Fuller v. Bolton (Ca., Ptn)  
Hunt v. Elmes (Cause)  
Farrar v. Young (M D)  
In re Carter } (F C, adj.)  
Charnley v. Carter } from ch.  
Denny v. Denny (F C)  
Plews v. Owen (M D)  
Att.-Gen. v. Bland (M D)  
Smith v. Payne (M D)  
Baillie v. Smart (M D)  
Meredith v. Bevan (F C)  
Salmon v. Salmon (M D)  
In re Russell's } (F C, ad-  
Estate } journed  
Russell v. Smith } from ch.  
Moreton v. Brocklebank (Ca.)  
Brocklebank v. Wilson (M D)  
Welstead v. Colville (M D)  
Morley v. Clavering (M D)  
Mordaunt v. Smith (F C)  
Tupling v. Hodgson (M D)  
Kendray v. Tanfield (M D)  
Bennett v. Harvey (M D)  
Williamson v. Grayson (M D)  
Burch v. Burrows (M D)  
Thoresby v. Neave (Cause)  
Lawrence v. Yardley (F C)  
Walcott v. Walcott (F C)  
Luard v. Pattinson (M D)  
Charlton v. West (M D)  
Aldersa v. Matthews (Cau.)  
Sweet v. Hoole (M D)  
Huckle v. Hemington (M D)  
Milne v. Wild (M D)  
Pritchard v. Tupling (M D)  
Southgate v. Burgess (M D)  
Phipps v. Child (M D)  
Smith v. Perry (Cause, at defendant's request)  
Crow v. Robinson (M D)  
Pearman v. Pearman (M D)  
Lancaster v. Dixon (F C)  
Borphy v. Thacker (Cause)  
Harris v. Whitaker (F C)  
Foster v. Drake (M D).

Jenner and Wife v. Morris (Cause)  
Wood v. Hookway (F C)  
Sherwood v. Storer (F C)  
Braddon v. Kelly (M D)  
Jones v. Jones (M D, Ptn)  
Hinton v. Knight (Cause)  
Dew v. Ward (M D)  
Mitchell v. Gale (M D)  
Hewitt v. Nanson (F C)  
Fox v. Charlton (F C)  
Blackman v. Walker (M D)  
Charman v. White (M D)  
David v. Howell (M D)

Fleck v. Willson (Cause)  
M'Intosh v. M'Intosh (F C)  
Visct. Wellesley (now Earl of Mornington) v. Earl of Mornington } (F C, 2 Summons to vary certificate)  
Countess of Mornington v. Visct. Wellesley (now Earl of Mornington)  
Henderson v. Dodds (M D)  
Shove v. Smith (Cause)  
Davies v. Tucker (F C)  
King v. King (M D).

Before the Vice-Chancellor Sir JOHN STUART.

CAUSES, &c.

Mills v. Barlow (E to answer)  
Cross v. Cross (E to ans., M)  
Mills v. Barlow (E to answer)  
Woolnough v. Gregson (M D)  
Parry v. Hughes (M D)  
Kidd v. Lee (M D)  
Pointon v. Pointon (Cause)  
Towle v. National Guardian Assurance Society (M D)  
Thomas v. Griffiths (M D)  
Cresswell v. Daniel (M D)  
Williams v. Scottowe (M D, part heard)  
Scottowe v. Williams (M D)  
Davies v. Davies (Cause, part heard)  
Davies & an. v. Davies (Cau.)  
Ennor v. Barwell (M D) June 21  
Smith v. Major (Cause)  
Vance v. Bond (F C)  
Bradford v. Nettleship (M D)  
Howard v. Barnwell (M D)  
Jones v. Jones (M D)  
Peters v. Healey (M D)  
Elwes v. Elwes (Cause)  
Williams v. Cooke (M D)  
Att.-Gen. v. Cowlishaw (M D)  
Thorpe v. Hodgkinson (F C)  
Morgan v. Atkinson (F C)  
Scobell v. Keen (M D)  
Bright v. Sidney (M D)  
Parkin v. Proudfoot (F C)  
Cotching v. Scrogge (2) (F C)  
Watson v. Reed (M D)  
Kenrick v. Barber (Cause)  
Harcourt v. Solomon (Cause)  
Dutton v. Dutton (F C)  
White v. Collins (M D)  
Rawlin v. Goldsmid (Cause)  
Shouls v. Dew (M D)  
Holloway v. Sturgis (M D)  
Clarke v. Clayton (M D)  
Harris v. Campbell (M D)

Neale v. Mitchell (M D)  
Archer v. Green (M D)  
Wareing v. Buckley (Cause)  
Marquet v. Simes (Cause)  
Gilbert v. Poore (M D)  
Barry v. Finch (Cause)  
In re Ransom } (F C, Sum-  
Ransom v. Ran- } mons from  
som } chambers)  
Male v. Loughton (F C)  
Currie v. Lewin (Cause)  
Williams v. Trueman (M D)  
Gaskell v. Chadwick (M D)  
Meynell v. Wright (F C)  
Jauncey v. Att.-Gen. (M D)  
Robins v. Hayward (M D)  
Sharp v. Duke of Buckingham and Chandos (M D)  
Clarkson v. Henderson (F C)  
Goddard v. Whyte (Cause)  
Graham v. Keown (M D)  
Reddrop v. Etches (M D)  
Smith v. Bell (F C)  
Pierce v. Burke (M D)  
Stephens v. Lawry (F C)  
Fleming v. Fleming (M D)  
Todd v. Miles (Cause)  
Harding v. Trotter (F C)  
Parkin v. Rock (Cause)  
Wilson v. De Polignac (F C)  
Grey v. Stuart (Cause)  
Percival v. Corsi (Cause)  
Lowndes v. Jodrell (F C)  
Pointon v. Pointon (Cause)  
Burton v. Selby (M D)  
Wade v. Jenkins (Cause)  
Ashmore v. Bulford (F C)  
Hopwood v. Littleton (M D)  
Parson v. Ell (M D)  
Marriott v. Anchor Revers-  
sionary Co. (M D)  
Stubbs v. Tutin (F C)  
Osborn v. Bellman (M D)  
Courtenay v. Wright (M D).

Before the Vice-Chancellor Sir RICHARD T. KINDERSLEY.

CAUSES, &c.

Smith v. Domville (M D)  
Curling v. Austin (Cl)  
In re Smith } (F C)  
S. J. Smith v. F. Smith }  
Austin v. Curling (Cl)  
Arnold v. Chaplin (F C)  
Gimson v. Downing (F C)  
Munger v. Moores (F C)  
Watlington v. Pridaux (F C, Summons to vary certif.)  
Howard v. Robinson (M D) June 20  
Att.-Gen. v. Great Northern Railway Co. (M D)  
Ward v. Filmer (Cause)  
New Brunswick and Canada Railway and Land Co. (Limited) v. Muggeridge (Ca.)  
Hughes v. Chester and Holyhead Railway Co. (M D)  
Brown v. Savage (F C)  
Horner v. Johnson (M D)  
Bemar v. Mitford (F C)

Guillon v. Rotch } (F C, Sum-  
Rotch v. Guillon } mons, adj.  
Smith v. Spilsbury (F C)  
Ramsay v. Sandeman (M D)  
Jenner v. Morris (Cause)  
Baxter v. West (M D)  
Wall v. Hall (F C)  
Huddleston v. Huddlestons (F C, Ptn)  
Drew v. Jeffery (Special case)  
Atkins v. Atkins (F C)  
Archer v. Kelly (M D)  
Larke v. Cann (M D)  
Dacre v. Patrickson (F C)  
Burt v. Trueman (M D)  
Sanil v. Whitaker (F C)  
Lake v. Lake (M D)  
Hutcheson v. Dods (M D)  
In re Carew's Estate } (F C)  
Laforest v. Laforest }  
Jarvis v. Hansall (Cause)

Before the Vice-Chancellor Sir W. P. WOOD.

CAUSES, &c.

Payne v. Cain (D)  
Drake v. Symes (D)  
Parmiter v. Parmiter (Cause)  
In re Parmiter's Estate } (F C, Sum-  
Parmiter v. Par- } mons, adj.  
miter } to vary certif.)  
North-eastern Railway Co. v. Elliott (M D)  
Ransford v. Griffiths (Cause)  
Laird v. Birkenhead Railway Co. (M D)  
Lewin v. Allen (M D)  
Lackersteen v. Lackersteen (M D, part heard) June 20

Walker v. Kidger (Cause)  
Lorkin v. London and North-western Railway Co. (M D)  
Rumball v. George (F C)  
Goldamid v. Haswell } (M D)  
Haswell v. Goldamid }  
Phippen v. Bath (F C)  
Whalley v. Ramage (Cause)  
Milburn v. Gregory (M D)  
Borghese v. Borghese (F C)  
Di Sora v. Borghese (Cause)  
Pamphili v. Pamphili (F C) (Part heard) June 21



Liverpool, draper.—*Christopher Langridge* and *Joseph Midgley*, Manchester, drysalter.—*John Slack Warburton* and *William Stevenson*, Manchester, timber merchants.—*Solomon Portman*, Oldbury, Worcestershire, innkeeper.—*Thomas Mills*, Leicester, elastic-web manufacturer.—*Henry James Wilson*, Whitechurch, Shropshire, surgeon.—*William Bogle*, Birmingham, hop merchant.—*Abraham Wootton*, Bloxwich, Walsall, Staffordshire, timber merchant.

PETITION ANNULLED.

*Charles Sharpousse Duggan*, Bridge-house-place, Newington-causeway, Surrey, wholesale stationer.

SCOTCH SEQUESTRATIONS.

*Robert D. Sullivan*, Edinburgh, shipowner.—*John Gillan & Co.*, Forres, wine merchants.—*John Smith*, Stewarton, innkeeper.

TUESDAY, June 19.

BANKRUPTS.

**CHARLES MAIDLAW**, Alma-square, Hill-road, St. John's Wood, builder, late of the Ponsford Arms, Hill-road, St. John's Wood, Middlesex, beer retailer, July 3 and 31 at 1, London: Off. Ass. Edwards; Sols. J. & J. H. Linklater & Co., 7, Walbrook, London.—Pet. f. June 14.

**ARTHUR WENTWORTH** and **THOMAS WENTWORTH**, Skin Market, Bermondsey, Surrey, hide and skin salesmen, July 3 at 2, and Aug. 7 at 12, London: Off. Ass. Edwards; Sol. Buchanan, 13, Basinghall-street, London.—Pet. f. June 18.

**HUGH BOUGHEN**, Norwich, chemist, June 27 at half-past 1, and July 30 at 2, London: Off. Ass. Pennell; Sol. Redpath, 27, Walbrook, London.—Pet. f. June 6.

**JOHN GOODALL BRETT**, Hornchurch, Essex, grocer, June 28 at 11, and July 27 at half-past 11, London: Off. Ass. Cannan; Sols. Lawrence & Co., 14, Old Jewry-chambers, Old Jewry.—Pet. f. June 16.

**DANIEL FRYER**, Great George-street, Bermondsey, Surrey, machinist, now a prisoner for debt in the Surrey County Gaol, Horsemonger-lane, Newington, Surrey, formerly of Crooked-lane, King William-street, London, umbrellas manufacturer, June 29 at 2, and July 27 at half-past 1, London: Off. Ass. Whitmore; Sol. Spencer, Coleman-street-buildings, Coleman-st., City.—Pet. f. June 11.

**JOHN PAGET**, Brierley-hill, Staffordshire, licensed victualler, June 29 and July 20 at 11, Birmingham: Off. Ass. Whitmore; Sols. James & Knight, Birmingham; Warrington, and Bolton & Sanders, Dudley.—Pet. d. June 6.

**MARSHALL JOHN STACEY**, Leeds, Yorkshire, dealer in tea, June 29 and July 27 at 11, Leeds: Off. Ass. Young; Sol. Simpson, Leeds.—Pet. d. June 7.

**JAMES GIBSON**, Todmorden, Yorkshire, manufacturer, July 2 and 30 at 11, Leeds: Off. Ass. Hope; Sol. Pankhurst, Manchester.—Pet. d. June 8.

**JOHN BAMFORD**, Stainland, near Halifax, Yorkshire, grocer, July 9 and Aug. 6 at 11, Leeds: Off. Ass. Hope; Sols. Ingram & Baines, Halifax; Bond & Barwick, Leeds.—Pet. d. June 18.

**HENRY MABSON**, Ecclesfield, Yorkshire, butcher, June 30 and July 28 at 10, Sheffield: Off. Ass. Brewin; Sols. Chambers & Waterhouse, Sheffield.—Pet. d. June 13.

**JOHN HEALD** the elder and **JOHN HEALD** the younger, Eckington, Derbyshire, shoemakers, (trading under the firm or style of John Heald), June 30 and July 28 at 10, Sheffield: Off. Ass. Brewin; Sols. Chambers & Waterhouse, Sheffield.—Pet. d. June 16.

**JOHN HUGHES**, Liverpool, licensed victualler, June 29 and July 20 at 11, Liverpool: Off. Ass. Bird; Sol. Hill, Liverpool.—Pet. f. June 18.

**WILLIAM GRANVILLE SHARP**, late of Northwich, Cheshire, timber merchant, and now of Edge-hill, Liverpool, Lancashire, June 28 and July 24 at 11, Liverpool: Off. Ass. Bird; Sols. Evans & Co., Liverpool.—Pet. f. June 16.

**WILLIAM SEABROOK CHALKLEY**, Liverpool, shipowner, June 27 and July 20 at 1, Liverpool: Off. Ass. Cazenove; Sol. Rymer, Liverpool.—Pet. f. June 9.

MEETINGS.

*John Wilson*, Sunderland, Durham, shipowner, June 29 at half-past 11, London, aud. ac.—*Henry Pownceby*, Leman-street, Whitechapel, Middlesex, printer, June 29 at 12, London, aud. ac.—*Charles Jones* the younger, Margaret-street,

Cavendish-street, and Great Castle-street, Regent-street, Middlesex, coachbuilder, June 29 at half-past 12, London, aud. ac.—*Joel Fox*, Norwich, furrier, June 29 at 11, London, aud. ac.—*William Riley* and *William Tomkinson Riley*, Bileton, Sedgley, and Walsall, Staffordshire, ironmasters, June 29 at 11, Birmingham, aud. ac.; July 12 at 11, div.—*Joseph Eccles*, *Edward Eccles*, and *Alexander Eccles*, Liverpool, cotton brokers, July 3 at 11, Liverpool, aud. ac. joint est., and aud. ac. sep. est. of *Edward Eccles* and *Alexander Eccles*; July 10 at 11, div. joint est., and div. sep. est. of *Edward Eccles* and *Alexander Eccles*.—*John W. Graves*, Birkenhead, Cheshire, chemist, July 3 at 11, Liverpool, aud. ac.; July 13 at 11, div.—*John Reynolds Williams*, Sandbach, Cheshire, ironmonger, July 3 at 11, Liverpool, aud. ac.; July 13 at 11, div.—*George Armitage*, Clement's-lane, City, iron merchant, July 11 at 11, London, div.—*George Hyde Parker*, High-street, Southwark, Surrey, grocer, July 11 at half-past 12, London, div.—*Wm. Parker Hammond*, Scott's-yard, Bush-lane, City, shipowner, July 11 at 12, London, div.—*Thomas John Marshall*, Bishopsgate-street Without, City, engineer, July 11 at half-past 1, London, div.—*John Bagehaw*, Dovercourt, near Harwich, Essex, lodging-house keeper, July 11 at half-past 12, London, div.—*Chas. Henry Harben*, Goulston-street, High-street, Whitechapel, and Carlton-hill-villas, Camden-road, Holloway, Middlesex, wholesale cheesemonger, July 11 at half-past 11, London, div.—*Henry Robert Wilkins*, West Bromwich, Staffordshire, draper, July 13 at 11, Birmingham, div.—*Thomas Tomkinson Riley*, Wolverhampton, Staffordshire, wine merchant, July 13 at 11, Birmingham, div.

CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*John Allen*, Broadway, Deptford, Kent, and Grey Eagle-street, Spitalfields, Middlesex, shoemaker, July 11 at 11, London.—*Thos. Davis*, Chapel-street, St. George-the-Martyr, Middlesex, hotel keeper, July 11 at half-past 12, London.—*James Steven*, Newcastle-upon-Tyne, hatter, July 12 at 12, Newcastle-upon-Tyne.—*Benjamin Abraham*, Taunton, Somersetshire, jeweller, July 18 at 11, Exeter, div.—*John Lancey*, Barnstaple, Devonshire, linendraper, July 18 at 11, Exeter.—*William Harris*, Stoke Prior, Worcestershire, hay dealer, July 6 at 11, Birmingham.—*Thomas Sturley*, Harbury, near Southam, Warwickshire, licensed victualler, July 20 at 11, Birmingham.—*Robert Blake Foster* and *John Fraser*, Liverpool, commission agents, July 10 at 12, Liverpool.

*To be granted, unless an Appeal be duly entered.*

*Charles Brock*, St. George's-road, Southwark, Surrey, licensed brewer.—*Chas. Wooltorton*, West Smithfield, City, ironmonger.—*William Udy Wilcock*, Lucan-place, Hoxton, Middlesex, builder.—*Charles Jones* the younger, Margaret-street, Cavendish-square, and Great Castle-street, Regent-street, Middlesex, coachbuilder.—*Thos. Murrells*, Brighton, Sussex, stationer.—*Kenselm Chandler*, Albert-road South, Norwood, Surrey, builder.—*John Derrick Ayers*, Nottingham, merchant.—*Roger Divine M'Manus*, St. Austel, Cornwall, apothecary.

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*Walter Noak*, *John Noak*, and *John Bissell Clark*, Droitwich, Worcestershire, salt manufacturers, (so far as respects *Walter Noak* and *John Noak*).

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COURT OF EXCHEQUER.

TRINITY TERM.—23 VICTORIA.—June 12, 1860.

This Court will hold a sitting on Tuesday, the 26th day of June instant, in addition to the days already appointed, and will on the said 26th day of June instant, proceed in giving judgment in matters then standing for judgment.

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## GAZETTES.—FRIDAY, June 22.

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**WILLIAM HILLIARD**, otherwise **WILLIAM HILLIARD BEVIS**, Burghclere, Southampton, maltster, July 5 at 2, and Aug. 9 at 12, London: Off. Ass. Bell; Sols. Cave, Newbury; Rickards & Walker, 29, Lincoln's-inn-fields, London.—Pet. f. June 20.

**JOHN TOMBS**, Church-street, Westminster, Middlesex, builder, July 5 at 11, and Aug. 3 at 1, London: Off. Ass. Whitmore; Sol. Burdon, 23, Martin's-lane, Cannon-street.—Pet. f. June 21.

**GEORGE CURTIS**, Landport, Hampshire, licensed victualler, July 4 at half-past 12, and Aug. 7 at half-past 2, London: Off. Ass. Lee; Sol. Jones, 5, New-inn, Strand, London.—Pet. f. June 21.

**JAMES BERRY BLACKBURN**, Norwich, currier, July 4 at half-past 2, and Aug. 7 at 1, London: Off. Ass. Edwards; Sols. Sadd, Norwich; Richardson, 15, Old Jewry-chambers, London.—Pet. f. May 15.

**THOMAS HARRISON**, Henley-upon-Thames, Oxfordshire, tailor, July 4 at half-past 1, and Aug. 7 at 2, London: Off. Ass. Edwards; Sols. S. & J. Cooper, Henley-upon-Thames; Berkeley, 52, Lincoln's-inn-fields, London.—Pet. f. June 20.

**WALTER NOAK and JOHN NOAK**, Droitwich, Worcestershire, salt manufacturers, July 5 and Aug. 3 at 11, Birmingham: Off. Ass. Kinnear; Sols. E. & H. Wright, Birmingham; Pugh, Worcester; Dugnan & Elsworth, Wall-sall.—Pet. d. June 8.

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**JAMES YOUNG**, Highbridge, Somersetshire, draper, July 3 and 30 at 11, Bristol: Off. Ass. Miller; Sols. Wood, and Bevan & Co., Bristol.—Pet. f. June 5.

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**JOHN MORGAN**, Manchester, clay merchant, July 9 and 24 at 12, Manchester: Off. Ass. Pott; Sols. Vickers & Diggle, Manchester.—Pet. f. June 16.

## MEETINGS.

*Joseph Eccles, Edward Eccles, and Alexander Eccles*, Liverpool, cotton brokers, July 3 at 11, Liverpool, pr. d. of *Alexander Eccles*.—*George Drake*, Eversholt-street, Camden-town, Middlesex, jeweller, July 3 at half-past 12, London, last ex.—*John E. Buller*, Enfield, and Lincoln's-inn-fields, Middlesex, scrivener, July 4 at 11, London, last ex.—*Wm. Knight*, Portobello-terrace, Kensington-park, and Princes Dairy, Hereford-road, Bayswater, Middlesex, cowkeeper, July 2 at half-past 11, London, last ex.—*Henry Gilbert Cutts*, Southampton-street, Strand, Middlesex, merchant, July 3 at half-past 11, London, and ac.—*Robert Haywood*, High-st., Homerton, Middlesex, grocer, July 5 at 11, London, and ac.—*David Cahn*, Leadenhall-street, London, merchant, July 5 at half-past 11, London, and ac.—*Thomas Sampson*, Stroud, and *Wm. Barnard*, Minchinhampton and Stroud, Gloucestershire, shawl manufacturers, July 12 at 11, Bristol, and ac. joint est., and aud. ac. sep. est. of *Wm. Barnard*; and July 19 at 11, div. joint est., and div. sep. est. of *Wm. Barnard*.—*Vincent Allen*, Newport, Monmouthshire, draper, July 12 at 11, Bristol, and ac.; July 19 at 11, div.—*Isaac James Hadwen* and *James L. M'Gregor*, Liverpool, Lancashire, and Havannah, Island of Cuba, merchants, July 3 at 11, Liverpool, and ac.; July 13 at 12, div.—*Robert Greenham*, Liverpool, merchant, July 3 at 11, Liverpool, and ac.; July 13 at 11, div.—*Tilden Smith, James Hilder, Geo. Scrivens,*

and *Francis Smith*, Hastings, Sussex, bankers, July 13 at half-past 2, London, div. joint est., and div. sep. est. of *Francis Smith and James Hilder*.—*Wm. W. Hall*, Kidderminster, Worcestershire, currier, July 16 at 11, Birmingham, and ac. and div.—*Thomas Morris*, Long Eaton, Derbyshire, joiner, July 17 at 11, Nottingham, and ac. and div.—*J. Morehouse* the younger, New Mill, near Huddersfield, Yorkshire, woollen-cloth manufacturer, July 13 at 11, Leeds, div.—*George Terry*, Leeds, Yorkshire, tinner, July 13 at 11, Leeds, div.—*John Boucher*, Blackwell, Derbyshire, dealer in timber, July 14 at 10, Sheffield, div.—*Wm. Potter*, Ellersburn, Yorkshire, grocer, July 13 at 11, Leeds, div.—*James Tassymann*, Leeds, Yorkshire, timber merchant, July 13 at 11, Leeds, div.

## CERTIFICATES.

*To be allowed, unless Cause be shown to the contrary on or before the Day of Meeting.*

*Emalie Weiss*, Piccadilly, Middlesex, milliner, July 19 at 2, London.—*George Booth*, Holmes-terrace, Kentish-town, Middlesex, provision merchant, July 13 at 12, London.—*Wm. Seager*, Phillips'-place, Shooter's-hill-road, Greenwich, Kent, builder, July 13 at 1, London.—*Henry Cooper*, Aldgate, City, grocer, July 16 at half-past 12, London.—*George Charles Noble*, Northampton, builder, July 13 at half-past 12, London.—*Frederick Miller*, Poland-street, Oxford-street, Middlesex, lead merchant, July 14 at 12, London.—*John Samuel Beale*, Paddington-green, Middlesex, surgeon, July 14 at 12, London.—*John Parnell*, Oxford-street, Middlesex, linendraper, July 14 at 1, London.—*Thomas Sampson* and *William Barnard*, Stroud, Gloucestershire, shawl manufacturers, Aug. 20 at 11, Bristol.—*Richard Turner*, Stoke-upon-Trent, Staffordshire, cabinet maker, July 23 at 11, Birmingham.—*Isaac Hanson*, Halifax, Yorkshire, innkeeper, July 30 at 11, Leeds.

*To be granted, unless an Appeal be duly entered.*

*Henry Strange*, Newent, Gloucestershire, plumber.—*John Lough Moreland*, Lydford and Keinton, Somersetshire, grocer.—*Joseph Oldroyd*, Batley, Yorkshire, blanket manufacturer.—*Joseph Balmforth Booth*, Elland, Yorkshire, draper.

## PETITIONS ANNULLED.

*William Bedford*, Middlesex-street, Whitechapel, Middlesex, baker.—*Alfred Haslam*, Manchester, coach proprietor.

## SCOTCH SEQUESTRATIONS.

*Bannerman & Co.*, Edinburgh, clothiers.—*Robert Warnock*, junior, Bonhill, Dumbartonshire, grocer.—*Matthae M'Turk*, Auchinleck, Ayrshire, contractor.—*John Arnott & Co.*, Glasgow, warehousemen.—*David Cormack*, Leith, merchant.—*Alexander Milne*, Hilton, Dundee, baker.

## TUESDAY, June 26.

## BANKRUPTS.

**THOMAS FENN and WILLIAM THOMAS FENN**, Norwich, Norfolk, and Fore-street, Cripplegate, London, and Tuilerie-street, Hackney-road, Middlesex, wholesale boot and shoe manufacturers, July 9 at half-past 1, and Aug. 6 at 1, London: Off. Ass. Pennell; Sols. Lumley & Lumley, 41, Ludgate-street, St. Paul's, London.—Pet. f. June 22.

**GUSTAVE HERMANN LILIE**, Black Swan-yard, Bermondsey, tanner, (lately trading with — Surmon, under the style or firm of Lilie & Surmon), July 9 at 2, and Aug. 6 at 12, London: Off. Ass. Pennell; Sol. Abraham, 17, Gresham-street, City.—Pet. f. June 19.

**GEORGE JOSEPH SANDFORD**, High-street, Marylebone, and Clerkenwell-green, Middlesex, linendraper, July 6 at 2, and Aug. 7 at 1, London: Off. Ass. Lee; Sol. Rushbury, 32, Coleman-street, London.—Pet. f. 25.

**THOMAS BONSER**, Plungar, Leicestershire, auctioneer, July 6 and Aug. 2 at 11, Nottingham: Off. Ass. Harris; Sol. Solhory, Nottingham.—Pet. d. June 23.

**THOMAS WILLIAM VERNON**, Bilston, Staffordshire, and Sparkbrook, Worcestershire, ironmaster, July 11 and 30 at 11, Birmingham: Off. Ass. Kinnear; Sols. James & Knight, Birmingham.—Pet. d. June 21.

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THE JURIST.

LONDON, JUNE 30, 1860.

THE establishment of a Law University, which we have on more than one occasion advocated, has, we observe, been made the subject of a very able paper read before the Law Amendment Society by Mr. J. Napier Higgins\*. It is a subject, no doubt, of great importance, and has produced some very useful suggestions from many learned and able individuals. Mr. Macqueen read a lecture in Lincoln's Inn Hall in 1851, before the Benchers; Mr. W. D. Lewis read a paper before the Juridical Society; and Mr. Cookson read another before the Metropolitan and Provincial Law Association in 1855. In all these disquisitions many improvements upon the present system, or rather want of system, are put forth, but in none with greater force and ability than in the paper we have first alluded to.

We think that the Benchers of the Inns of Court—that is to say, the majority of them—have not, with reference to legal education, dealt fairly with the country or with Parliament.

Had the Inns of Court, as a great legal establishment, been subjected to the same process before our courts of justice as other educational institutions, such as ordinary grammar-schools, they would doubtless have been greatly reformed, and their large funds applied to the purposes for which they ought justly to be appropriated. The constitution of our courts of

justice, consisting almost entirely of the persons whose conduct as trustees would have to be taken into consideration, effectually prevents resort to them. Hence the commission to inquire into the state of the Inns of Court was issued, and although in one respect it was open to the grave objection that its members were almost exclusively Benchers—the very persons whose administration of the funds of their several societies had been severely and repeatedly censured—the commission produced, in so far as its recommendations for the future were concerned, a very satisfactory Report. That Report, we believe, was not acted upon by Parliament, solely in consequence of there being at least a tacit understanding that, as far as possible, its recommendations should be carried into effect by the Benchers themselves. This has not been done, and the important events of the last few years—such as the Russian and Indian wars, and other important foreign and political affairs—appear to have withdrawn, temporarily only, we hope, the public attention from the subject of legal education.

The delay of the Benchers is, we believe, attributable to a slight majority of them, who have done much to obstruct the exertions of such men as Sir R. Bethell and Vice-Chancellor Wood in the cause of legal education. It is to be regretted that the deliberations of the Benchers upon such subjects (especially as they are a self-elected body) should not either be in public or be made public; for, if that were the case, we confidently predict that the learned Attorney-General and the Vice-Chancellor would soon have with them a large majority.

Let us not for a moment be supposed to undervalue

\* Law Amendment Journal, May 30, 1860.

what has already been done by the Inns of Court since the year 1845 for legal education, or the labours of the very learned and able men who have been appointed readers or lecturers. What they have done suggests to us how much more might be effected if the Benchers could only be induced to take part in the formation of a grand and comprehensive Legal University. Doubtless this might be best done by themselves, and with as little external interference as possible, except so far as the assistance of the Legislature might be requisite to carry forward their scheme. But if the Benchers of the Inns of Court, or rather the majority of them, refuse or decline to carry out the suggestions of the commissioners, it will become the duty of Parliament to interfere by effective legislation, and no longer to trust to the promised fulfilment of the mere recommendations of a report.

In the paper read before the Law Amendment Society, the decline of legal education is, upon the authority of Lord Campbell in his *Lives of the Chancellors*, attributed to the "system of private pupillage in barristers' chambers," before the attainment of a general and scientific knowledge of the law.

The professorships at the Universities of Oxford and Cambridge, the recently-established Readers at the Inns of Court, and, in the case of solicitors and attorneys, the lectures and examinations of the Incorporated Law Society, have, though without any general plan or harmonious action, done much, but by no means all that can or ought to be done, for the requirements by the country under the head of legal education.

The unpaid magistracy of this country, our foreign ministers and ambassadors, with those attached as assistants to their labours, our consuls abroad, our colonial and Indian judges, independently of our barristers, have not at present the means whereby they can properly or readily qualify themselves for the important posts they either hold or may be called upon to hold.

The paper read before the Law Amendment Society suggests that "the four Inns of Court and the Incorporated Law Society should be constituted a Law University for the purposes there mentioned; that there should be a matriculation common to all students; and that, for a given period, according to the analogy of both English and foreign Universities, the course of study should be the same for all. At the end of the period, it is suggested that either the same University, or the Inns of Court, retaining their present special functions, should undertake the special education and the duty of selection of candidates for the Bar; and that in the same way, after such period of study, common to all students of the University, the University, or the Incorporated Law Society, should discharge the special functions now assigned to the latter body." The learned author of the paper adds, "Let the University itself have within its particular province the various extra professional classes of persons, and also the peculiar subjects to which I have referred. A student intending to become a barrister might enter the University and some Inn of Court at the same time; and so articulated clerks to attorneys might enter the University and the Incorporated Law Society together. The Inns of Court and the Law Institution would thus still retain

their privileges, and each would continue to have its specialité. The only difference would be, that no one could become a barrister or attorney who had not matriculated at the University, and passed a subsequent examination there."

Now, fully agreeing as we do with the necessity of establishing a Legal University, we confess we feel inclined to differ from the learned reader of the paper as to the mode of its composition. We confess to a strong feeling, perhaps it may be a prejudice, in favour of the Inns of Court alone being formed into a Legal University. We think that they might be so combined together in their organisation and pursuits as completely to fulfil the task of educating, in every branch of jurisprudence which their future career may require, our bar, our judges, our magistrates, consuls, ambassadors, and legislators.

With regard to a very important body of men whose legal education is of great consequence to the country—we mean attorneys and solicitors—we do not think that we should act wisely in taking it in any way out of the hands of the Incorporated Law Society.

We hope that the important suggestions in the paper of Mr. Higgins will meet with full consideration from the public at large, as well as from the society before which it was read.

RATHER more than a hundred years ago it was found necessary to render prosecutions for perjury and subornation of perjury more easy and effectual, and accordingly the 23 Geo. 2, c. 11, was passed for that purpose. That statute, after providing for the simplifying and shortening of indictments in such cases, then enacted, that, "to prevent great offenders from escaping punishment by reason of the expense attending such prosecutions," any of "her Majesty's justices of assize, or Nisi Prius, or general gaol delivery, or of any of the great sessions of the principality of Wales or of the counties palatine," might direct any person examined as a witness before them to be prosecuted for perjury, in case it appeared to them that there was a reasonable cause for such prosecution, and to assign to the party injured, or other person undertaking such prosecution, counsel, who were thereby required to do their duty without any fee, gratuity, or reward for the same. The prosecution was to be carried on without fees, and a certificate of the same having been so directed was to be given to the person undertaking the prosecution; but it was also provided that no such certificate should be given in evidence upon any trial to be had against any person upon a prosecution so directed.

By the 14 & 15 Vict. c. 100, s. 19, it was thought expedient to amend and extend the last-mentioned act; and it is accordingly enacted, that not only the judges or judge of any of the superior courts of common law or equity, or any of her Majesty's justices or commissioners of assize, Nisi Prius, oyer and terminer, or gaol delivery, but also "any justices of the peace, recorder or deputy recorder, chairman, or other judge, holding any general or quarter sessions of the peace, or any commissioner of bankruptcy or insolvency, or any judge or deputy judge of any county court or any court of record, or any justices of the peace in special

or petty sessions, or any sheriff or his lawful deputy, before whom any writ of inquiry or writ of trial from any of the superior courts shall be executed, in case it shall appear to him or them that any person has been guilty of wilful and corrupt perjury in any evidence given before him in any proceeding, may direct such person to be prosecuted, and commit him to prison in default of bail, and may bind over any person to prosecute or give evidence;" and "give to the party so bound to prosecute a certificate of the same being directed, which certificate shall be given without any fee or charge, and shall be deemed sufficient proof of such prosecution having been directed as aforesaid; and upon the production thereof, the costs of such prosecution are required to be allowed by the Court before which any persons shall be prosecuted or tried in pursuance of such direction as aforesaid, unless such last-mentioned Court specially otherwise direct;" and it afterwards provides that no such direction or certificate shall be given in evidence upon any trial had against any person upon a prosecution so directed as aforesaid.

The effect of these enactments is to place in the hands of a great number of persons, some more some less prudent, the power of depriving of his liberty, or placing at the bar on a criminal and serious charge, an innocent man who may have incurred their suspicion, and at the same time leaves him without any redress when he has cleared himself of the charge. Justices of the peace do not always possess the greatest penetration into character, or possess the most impartial or clear judgment; and county court judges are not by any means infallible, or free from prejudice or passion. They form a numerous class; yet, if actuated by no corrupt motives, they may exercise the discretion given them by the enactments mentioned above so as to do a grievous wrong to a perfectly innocent man, without being in any way answerable to him for their acts. They may be misled by his own manner, by the complexion of the case, by the falsehood of his opponents, or by their demeanour. Their own judgment may be warped by sudden heat; yet in any of these events, if they commit to prison, and order a prosecution to be instituted, the consequences to the victim of their error are most serious, and may be irremediable; yet there is no equivalent for him—all the risk of exercising this power is on one side. Upon the authority of Lord Tenterden in *Garnett v. Ferrand*, (6 B. & Cr. 611), no action can be brought against any judge of a court of record for any thing done in the exercise of his judicial functions; and undoubtedly the exercise of this power would be held to come within the scope of that rule. So far between the injured person and the judge.

But neither, it appears by the late case of *Pitsohn v. Mackinder*, (29 L. J., C. P., 107), has he any remedy against his opponent, though he may have been the real cause of the injury—his perjury the true impelling power of the judge's direction to prosecute. The real perjurer in such a case is thus guilty of a double wrong, and may yet escape unhurt. His perjury in the first instance would enable him to succeed before the judge in his own claim, and also thus indirectly be the cause of his opponent's prosecution. The case of *Pitsohn v. Mackinder* was an action brought by the plaintiff for falsely and maliciously procuring

the judge of the County Court of Rutlandshire to direct the plaintiff to be prosecuted for perjury. The defendant in this action sued the plaintiff in the county court for a debt to which the plaintiff had set up a set-off; whereupon the defendant swore that the latter account had been settled, and shewed a signature of the plaintiff's name, and swore that he had so signed it in the defendant's presence: the plaintiff swore that he had not signed it, but his manner being unsatisfactory, and because the judge entertained a prejudice against him for his conduct on previous occasions, the judge ordered a prosecution, committed the plaintiff, and bound the defendant over to prosecute. The plaintiff was indicted at the assizes, the defendant appeared as prosecutor, but the handwriting was proved not to be that of the plaintiff, and he was acquitted. He brought his action, was nonsuited, and the nonsuit held to be right. He could not be considered to have caused the prosecution, for he was bound over to prosecute; nor could he be said to have put the criminal law in motion—that the county court judge had done. This is undoubtedly a case in which a great wrong has been done, but no remedy; it shews the danger of intrusting the power given by the above act to so great a number of judicial officers, and those local; and if the considerations of general expediency or public policy are deemed sufficiently weighty to forbid our Courts to interfere to compel compensation to a claimant who has suffered damage at the hands of another in such a case as this, yet the danger of exercising this power ought to be placed before the eyes of those within whose province the Legislature has thought fit to place it. The great confidence that is placed in them, and the withdrawal of control, should render them the more diffident, and anxious not to abuse it.

### THE BANKRUPTCY FOLIO.

AN agitation is in progress for the purpose of obtaining a reduction in the bankruptcy folio from ninety to seventy-two words. There can be no doubt that the scale of measurement should be the same in bankruptcy as (since the Orders in Chancery and Lunacy, abolishing the old ecclesiastical folio of ninety words, which came into operation in July, 1854) it has been in all other courts. Whether a corresponding reduction of the allowance per folio should also be made is another question. The alteration is recommended by the Incorporated Law Society and by Mr. Commissioner Holroyd.

### MARITIME CAPTURE.

By an Order in Council published in last Tuesday's Gazette, after reciting—"Whereas, in the event of hostilities commencing between her Majesty and her august ally the Emperor of the French on the one hand, and the Emperor of China on the other hand, it is the intention and desire of her Majesty and of his Majesty the Emperor of the French to act during such hostilities in strict conformity with the declaration respecting maritime law signed by the plenipotentiaries of Great Britain, Austria, France, Prussia, Russia, Sardinia, and Turkey, assembled in Congress at Paris, and dated the 16th April, 1856; and whereas her Majesty is will-

ing to extend the benefits of the said declaration of Paris to all powers which may be neutral in the said hostilities," it is ordered, "that, so far as regards the ships of any neutral power, the flag of any such power shall cover the enemy's goods, with the exception of contraband of war; so that no goods of enemies found on board any ship belonging to the subjects of such neutral power, or to those inhabiting within the dominions of any such power, and duly entitled to use the flag of such power, shall be subject to capture or condemnation by reason only of such goods being enemies' goods; all other liabilities to capture and condemnation respectively of enemies' goods and neutral ships being reserved, and remaining in all respects as before the declaration of the said Congress at Paris of the 16th April, 1856.

"And it is further ordered, that neutral goods, with the exception of contraband of war, shall not be liable to capture, under the enemy's flag, by reason only of the said goods being under the enemy's flag; all other liabilities to capture and condemnation of neutral goods being reserved, and remaining in all respects as before the declaration of the said Congress at Paris of the 16th April, 1856: provided always, and it is hereby ordered, that nothing herein contained shall be applicable to, or shall be construed, deemed, or taken so as to operate or apply to or in favour of, any person, ship, or goods whatsoever which may be captured for breaking or attempting to break, or which may be lawfully adjudged to have broken or attempted to break, any blockade maintained by a force sufficient really to prevent access to the coast of the enemy; but that all such persons, ships, and goods may be duly taken cognisance of, proceeded upon, adjudicated, dealt with, and treated in all respects and to all purposes, according to the course of Admiralty and the law of nations, as if this Order had never been made, anything hereinbefore to the contrary in anywise notwithstanding.

"And it is further ordered, that notwithstanding the existence of hostilities between her Majesty and her august ally on the one hand, and the Emperor of China on the other hand, and during the continuance thereof, all and every the subjects of her Majesty and of her august ally the Emperor of the French shall and may, during such hostilities, freely trade at and with all ports and places wheresoever situate in the dominions of China, and also with all persons whomsoever, as well subjects of the Emperor of China as others, residing or trading within any part of the dominions of the said Emperor.

"And it is further ordered and declared, that if any Chinese ship or vessel shall be captured or taken by any of her Majesty's vessels or forces, having on board any merchandise or goods being the bona fide property of any subject or subjects of her Majesty or of her august ally the Emperor of the French, such merchandise or goods shall not be subject or liable to be condemned as prize, but shall, on the proof of such property as aforesaid, be restored to the owner or owners thereof: provided always, and it is hereby ordered, that this Order shall not apply, or be construed, deemed, or taken to operate to or apply to or in favour of contraband of war, or to trading in supply of or dealing with any articles or things which it may be declared by her Majesty and her august ally shall be deemed and taken as contraband of war, or to any trading or attempt to trade with places subject to effective blockade by the ships or fleets of her Majesty and her august ally, or either of them; and it is further ordered that her Majesty's officers and subjects, and especially her Majesty's Courts and officers exercising any prize jurisdiction, do take notice hereof, and govern themselves accordingly."

**CRIME IN ENGLAND.**—The "Judicial Statistics" of England and Wales for 1859 have been issued from the Home Office, and laid before Parliament, with an introductory report by Mr. Redgrave, "Criminal Registrar." The number of persons apprehended for indictable offences in the year was 27,119, of whom only 16,674 were sent for trial, and 12,470 (not quite 46 per cent. of the number apprehended) were convicted. These numbers pertain to the more serious offences, but there were besides 392,810 persons proceeded against summarily before magistrates, and 257,810, or nearly two-thirds of the whole, were convicted. Many of these persons were charged before the justices with offences rather of a civil than a criminal sort, but a large proportion of them were of a grave character. 133,157 persons were charged with stealing, poaching, assault, or malicious destruction of property; while at least 163,912 more were accused of offences which indicate a loose disorderly character, such as drunkenness, vagrancy, unlawful possession of goods, misdemeanours under the Police Acts, and the like. The whole number of persons proceeded against during the year, whether by indictment or summarily before magistrates, was 419,929; and a table is given shewing that 136,486 (less than a third) were known to the police as "suspicious characters," vagrants, drunkards, prostitutes, or thieves; 133,359 were persons of good character, and of the remaining 160,084 the character was unknown. But in order to a comparison with past years, we must confine ourselves to the commitments for trial by indictment, and in such a comparison it is always necessary to bear in mind that the Criminal Justice Act of 1855 has since that date withdrawn a considerable number of offences from this table, and transferred them to the magistrates. But we have the satisfaction of seeing that the commitments in 1859 were 6·6 per cent. less than in 1858, and 17·7 per cent. less than in 1857. In the year 1859 offences against the person decreased 5·8 per cent.; offences against property committed with violence (including the chief crimes, burglary, house-breaking, and robbery) decreased 15·8 per cent.; the decrease in stealing without violence was 5·4, and was very marked in sheep-stealing; larceny in dwelling-houses, embezzlement, receiving stolen goods, and fraud, forgery, and offences against the currency decreased 11·7 per cent., chiefly the offence of uttering counterfeit coin; in malicious offences against property there was a slight increase. But to shew more completely the state of crime for a series of years Mr. Redgrave distinguishes between crimes which spring from the state of the general community, and are of singularly uniform recurrence, and those which spring from a separate criminal class, liable to be increased or diminished by circumstances—the price of food, the state of employment, the system of police; and selecting crimes for which no disturbing changes have been made in the law, except by a great amelioration of punishment, he has constructed two tables shewing the commitments of the last thirty years. The first table is as follows:—

	1830-4.	1835-9.	1840-4.	1845-9.	1850-4.	1855-9.
Murder .. .. .	396	315	347	365	348	345
Wounding with intent to do bodily harm ..	605	739	1157	1173	1949	1805
Manslaughter .. ..	913	1024	1050	980	1144	1144
Rape and attempts ..	837	973	1221	1263	1395	1289
Bigamy .. .. .	186	215	354	369	404	449

In these thirty years, Mr. Redgrave remarks, the population cannot be estimated to have increased less than 40 per cent., and property probably in a much greater ratio. But there has been no corresponding increase in the commitments for murder, and in those for manslaughter the increase has not amounted to half the rate of increase of the population. In stabbing and attempts to murder there has been a progressive increase, which shewed itself in a marked degree on



the extensive abolition of capital punishments in 1837. The commitments for rape and attempts to ravish at once attained a higher rate on the abolition of the capital punishment in 1841, but have since been without important change. In bigamy, a large progressive increase marks each quinquennial period. These crimes are chiefly those in which the detective agency of the increased police establishments would be brought to bear, rather than their powers of prevention, and the increase described may, in a considerable degree, be attributed to the greater ratio of detection. The other table, which is as follows, relates to crimes which may be ascribed to the existence of a criminal class:—

	1830-4.	1835-9.	1840-4.	1845-9.	1850-4.	1853-6.
Burglary and housebreak- ing .. .. .	4801	3690	6162	5463	5495	5692
Robbery on the person, &c.	2645	1601	2026	1783	2405	2243
Cattle and sheep stealing ..	2453	2465	2984	2187	1796	1492
Embezzlement .. .. .	1169	1384	1805	1815	2048	2085
Fraud .. .. .	1978	2225	3000	2808	3532	4139
Arson .. .. .	367	294	680	708	913	664
Forgery and uttering .. ..	331	404	781	783	863	1043
Coining and uttering .. ..	1836	1718	2047	1946	3337	3418

For the last fifteen years, it will be seen, the commitments for burglary and housebreaking have been without any sensible variation; for robbery on the person, the increase, comparing the last with the first fifteen years, has not exceeded 13·7 per cent.; for horse, sheep, and cattle stealing, in the same period, there has been a large absolute decrease in the commitments. These are all crimes in which the repressive agency of the police would be felt. The large increase in the other crimes in this table shews how skill has been succeeding violence, and marks the tendency of modern crime.

**WILLIAM FRYER**, Norwich, boot manufacturer, (trading under the style or firm of *W. Fryer & Co.*), July 10 at 2, and Aug. 14 at 12, London: *Off. Ass. Edwards*; *Sols. Jay & Pilgrim*, Norwich; *G. Jay*, 14, Backlambury, London.—*Pet. f. June 22.*

**RICHARD BAKER**, Ipsley, Warwickshire, needle dealer, July 6 and 27 at 11, Birmingham: *Off. Ass. Whitmore*; *Sols. Hodgson & Allen*, Birmingham; *Browning & Son*, Redditch.—*Pet. d. June 15.*

**CHARLES GANNETT**, Cardiff, Glamorganshire, outfitter, July 9 and Aug. 21 at 11, Bristol: *Off. Ass. Miller*; *Sols. Smith & Co.*, Bristol.—*Pet. f. June 11.*

**EDWIN JOHN PICKSLAY**, Wakefield, Yorkshire, scrivener, July 12 and Aug. 9 at 11, Leeds: *Off. Ass. Young*; *Sol. Clarke*, Leeds.—*Pet. d. and f. June 21.*

**HENRY HOLDEN**, Doncaster, and **RICHARD WAINMAN HOLDEN**, Sheffield, Yorkshire, cattle dealers, July 7 and Aug. 4 at 10, Sheffield: *Off. Ass. Brewin*; *Sols. Smith & Burdekin*, Sheffield.—*Pet. d. and f. June 23.*

**JOSEPH WALKER CRAWFORD**, Lincoln, grocer, July 18 and Aug. 15 at 12, Kingston-upon-Hull: *Off. Ass. Carrick*; *Sols. Brown & Son*, Lincoln.—*Pet. f. June 23.*

#### MEETINGS.

*Richard Goodacre*, Nottingham, grocer, July 19 at 11, Nottingham, last ex.—*Edw. Richards Sherren*, Richmond Villas, Westbourne-grove North, Bayswater, Middlesex, builder, July 14 at 1, London, and ac.—*John S. Beale*, Paddington-green, Middlesex, surgeon, July 14 at 12, London, and ac.—*Frederick Miller*, Poland-street, Oxford-street, Middlesex, glass merchant, July 14 at 12, London, and ac.—*John Parnell*, Oxford-street, Middlesex, linendraper, July 14 at 1, London, and ac.; July 17 at 1, div.—*S. Gosling*, Castle Acre, near Swaffham, Norfolk, butcher, July 10 at 1, London, and ac.—*T. Winwood*, Neath, Glamorganshire, grocer, July 12 at 11, Bristol, and ac.; July 26 at 11, div.—*W. Nimmo*, Wellington-mills, Pendleton, and Manchester, cotton spinner, July 12 at 12, Manchester, and ac.; July 19 at 12, div.—*T. J. Wilkinson*, Hulme, Manchester, surgeon, July 13 at 12, Manchester, and ac.; July 19 at 12, div.—*J. Jones*, Tunstall, Staffordshire, ironmonger, July 6 at 11, Birmingham, and ac.—*William Boswell*, Birmingham, licensed victualler, July 11 at 11, Birmingham, and ac.—*Henry Beck*, Sheffield, Yorkshire, hosier, July 7 at 10, Sheffield, and ac.—*Samuel Free-*

*man and J. Clifford*, Leicester, elastic web manufacturers, July 19 at 11, Nottingham, and ac. and div.—*Jas. Wootton*, Leicester, builder, June 19 at 11, Nottingham, div.—*Charles Jaffe*, Hockley, Nottinghamshire, leather cutter, July 17 at 11, Nottingham, div.—*John Goodfellow*, Coventry, Warwickshire, cabinet maker, July 27 at 11, Birmingham, div.—*W. Weston Young*, *Joseph Weston Young*, and *George Young*, Neath, Glamorganshire, millers, July 19 at 11, Bristol, div. joint and sep. ests.—*Stephen Cox*, St. George, Gloucestershire, and Bristol and Brington, Somersetshire, chemical manufacturer, July 19 at 11, Bristol, fm. div.—*Thomas Threlfall Rigby*, Runcorn, Cheshire, merchant, July 17 at 11, Liverpool, div.

#### CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*William Ray*, Norman-terrace, Wellington-road, Stockwell, Surrey, shipowner, July 18 at half-past 11, London.—*Epaphras Clayton*, Openshaw, near Manchester, grocer, July 18 at 12, Manchester.—*John Legge*, Walsall, Staffordshire, iron manufacturer, July 20 at 11, Birmingham.—*D. Widdowson*, Nottingham, lace manufacturer, July 24 at half-past 11, Nottingham.

*To be granted, unless an Appeal be duly entered.*

*Robert Tanner*, Stratford, Essex, tea dealer.—*Samuel Davidson* and *Adolph Kanter*, St. Mary Axe, City, importers of foreign merchandise.—*William Roberts*, Coventry, Warwickshire, builder.—*Frederick Mills*, Tamworth, Warwickshire, innkeeper.—*John Mountford*, Stoke-upon-Trent, Staffordshire, parian manufacturer.

#### SCOTCH SEQUESTRATION.

*John Lockhart*, Glasgow, cattle salesman.

The Queen has been pleased to direct letters-patent to be passed under the Great Seal, granting the dignity of a Knight of the United Kingdom of Great Britain and Ireland unto *John Nodes Dickinson, Esq.*, First Puisne Judge of the Supreme Court of New South Wales.

**COMMISSIONER TO ADMINISTER OATHS IN CHANCERY.**—The Lord Chancellor has appointed *James Bouskell, Gent.*, of Leicester, to be a Commissioner to administer oaths in the High Court of Chancery in England.

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**RICHARD ELLIS**, Northampton, chemist, July 11 and Aug. 14 at 2, London: Off. Ass. Lee; Sols. Gates, Northampton; Harrison & Lewes, 6, Old Jewry, London.—Pet. f. June 28.

**ROBERT BARKER**, Maldon, Essex, boot manufacturer, July 11 at half-past 11, and Aug. 15 at 12, London: Off. Ass. Graham; Sols. Sole & Co., 68, Aldermanbury, London.—Pet. f. June 20.

**AMBROSE SUTTON**, Cowley-vale, near St. Helens, Lancashire, corn miller, (late carrying on business with William Whittingham, under the style or firm of Samuel Tomlinson & Co.), July 10 and 30 at 12, Liverpool: Off. Ass. Morgan; Sols. Ansdell, St. Helens; Evans & Co., Liverpool.—Pet. f. June 19.

**HENRY DOWSON**, Newcastle-upon-Tyne, draper, July 9 and Aug. 7 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Watson, Newcastle-upon-Tyne; Dickinson, Alston; Harwood & Pattison, 10, Clement's-lane, Lombard-street, London.—Pet. f. June 30.

## MEETINGS.

*John Chamberlin*, Rupert-street, Haymarket, Middlesex, wheelwright, July 11 at 2, London, ch. ass.—*Samuel Bothwell*, Dorking, Surrey, builder, July 11 at 1, London, last ex.—*John Culverwell*, Washford Mills and Williton Mills, Somersetshire, miller, July 26 at 11, Exeter, last ex.—*Thos. Smith*, James Hilder, George Scrivens, and Francis Smith, Hastings, Sussex, bankers, July 12 at 11, London, and ac.—*Patrick Adair Black* and *John Whittingham*, Liverpool, provision brokers, June 10 at 11, Liverpool, aud. ac.—*Wm. Potter*, Ellerburn, Yorkshire, grocer, July 12 at 11, Leeds, aud. ac.—*James Tesseyman*, Leeds, Yorkshire, timber merchant, July 12 at 11, Leeds, and ac.—*Jonathan Morehouse* the younger, New Mill, near Huddersfield, Yorkshire, woolen-cloth manufacturer, July 12 at 11, Leeds, and ac.—*Richard Gregory*, Halifax, Yorkshire, grocer, July 12 at 11, Leeds, and ac.—*J. Boucher*, Blackwell, Derbyshire, dealer in timber, July 14 at 10, Sheffield, and ac.—*Charles Hollingsworth Tidbury*, Lavender Dock Wharf, Surrey, and

*Geest*, James-street, Bedford-row, Middlesex, wharfinger, July 20 at 1, London, div.—*Peter Taylor*, Saffron Walden, Essex, licensed victualler, July 20 at 1, London, div.— *Jas. Hellings*, Edgware-road, Paddington, Middlesex, cowkeeper, July 20 at 11, London, div.—*Samuel Parry*, Queen-street, Cheapside, London, and Midway Park, Islington, Middlesex, boarding-house keeper, July 19 at 12, London, div.—*Joseph Charles Byrne*, Palm-mall East, Middlesex, and Sun-court, Cornhill, London, emigration agent, July 24 at 2, London, div.—*Robert Luke Tyler*, Spalding, Lincolnshire, wine merchant, July 24 at half-past 11, Nottingham, and ac. and div.—*Denis Ems Gauwin*, Liverpool, shipbroker, July 24 at 11, Liverpool, div.—*John Jackson*, Oulton, near Leeds, corn miller, July 20 at 11, Leeds, div.—*Stephen Moss* and *Wm. Ashworth*, Halifax, Yorkshire, fustian cutters, July 20 at 11, Sheffield, div.—*John Barton Baldwin*, Whitkirk, Yorkshire, merchant, July 20 at 11, Leeds, div.—*George Terry*, Leeds, tinner, July 12 at 11, Leeds, aud. ac.

## CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*Wm. Jackson*, Brewer-street, Somers-town, St. Pancras, surgeon, and Queen's-terrace, Malden-lane, Camden-town, Middlesex, butcher, July 26 at 12, London.—*John Thomas Russell*, Northampton, linendraper, July 26 at half-past 12, London.—*Thomas Holland*, Godalming, Surrey, manufacturer of hosiery, Aug. 9 at half-past 12, London.—*James Hellings*, Edgware-road, Paddington, Middlesex, cowkeeper, July 20 at 11, London.—*Frederick Wilks Milburn*, Westbourne-park-villas, Middlesex, boarding-house keeper, July 20 at half-past 12, London.—*Thomas Simmons*, Cheapside, London, and Fairmead-villas, Albert-road, Peckham, Surrey, warehouseman, July 19 at 2, London.—*Francis J. Fovles*, Hatcham, Surrey, and Rood-lane, London, oil merchant, July 19 at half-past 2, London.—*Walter Faithfull*, Ironmonger-lane, London, linen agent, July 19 at 1, London.—*John Box* and *Henry J. Lewis*, Gloucester, corn merchants, July 24 at 11, Bristol.—*John Williams*, Pontypool, Monmouthshire, surgeon, July 24 at 11, Bristol.—*Vincent Allen*, Newport, Monmouthshire, draper, July 31 at 11, Bristol.—*Nicholas M. Grose*, Wadebridge, Cornwall, wine merchant, July 25 at 1, Exeter.—*George T. Suter*, Weymouth and Melcombe Regis, Dorsetshire, confectioner, July 25 at 1, Exeter.—*John S. Ferguson*, Nottingham, builder, July 24 at half-past 11, Nottingham.—*Edward Smith*, Birmingham, printer, July 23 at 11, Birmingham.

*To be granted, unless an Appeal be duly entered.*

*Stephen A. Johnson*, Broad-street-buildings, City, commission agent.—*Samuel Parry*, Queen-street, Cheapside, London, and Midway-park, Islington, Middlesex, boarding-house keeper.—*Joseph A. Crane*, King-street, Cheapside, City, merchant.—*Thomas Chard*, Bristol, agent for the sale of flour.—*Jackson Southward*, Liverpool, printer.—*William Marris*, Nottingham, draper.

## PARTNERSHIP DISSOLVED.

*Luke Minshall* and *Benjamin H. Sanders*, Bromsgrove, Worcestershire, attorneys and solicitors.

## SCOTCH SEQUESTRATION.

*Archibald Binnie*, Glasgow, brickmaker.

## TUESDAY, July 3.

## BANKRUPTS.

**WILLIAM STEPHEN CHARLES WHITE BASSETT**, Sheerness, Kent, grocer, July 13 at 1, and Aug. 13 at half-past 12, London: Off. Ass. Pennell; Sols. Blakeley & Stone, 26, Nicholas-lane, Lombard-street, City.—Pet. f. June 25.

**WLADISLAW SPIRIDION KLISZEZEWSKI**, Cardiff, Glamorganshire, watchmaker, (trading under the style or firm of W. Spiridon), July 17 and Aug. 14 at 11, Bristol: Off. Ass. Acraman; Sols. Bevan & Co., Bristol.—Pet. f. June 29.

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## THE JURIST.

LONDON, JULY 7, 1860.

SOME time back (see 5 Jur., N. S., part 2, pp. 239, 283) we devoted a couple of articles to the discussion of the liability of the owner of an animal for the injuries which it might inflict on other persons. We divided the cases into two classes, viz. those where the injury was not inflicted on the land of the owner of the animal, and those where it was. With respect to the first class, we shewed that a man was not liable for the acts of his animals *mausuetæ nature*, unless he knew that they were dangerous; but that he was liable for those of his animals *feræ nature* without such knowledge; and we ventured to suggest that the test of an animal belonging to the one or the other of these kinds should be, whether or not it was an animal generally found domesticated in this country. With respect to the second class of cases, we came to the conclusion that the question of liability for the keeping of dangerous animals on the owner's premises stands apparently on the same footing as the liability of a man for setting traps, or keeping any dangerous instruments, or doing any other dangerous act on his premises, by which, unintentionally, a stranger is injured; that this latter liability had been much discussed, and was still a question of difficulty and doubt; but that, on the whole, we thought that the current of authority ran in favour of the position, that a man may keep any dangerous thing on his premises as long as he keeps it so as not to cause injury to an innocent person, who is on the premises by his invitation or license, express or implied.

We did not then think it necessary to allude to the cases of injury caused to adjoining property by machinery used on the owner's land, the cases being of such common occurrence, and the law on the subject being so well known. Our memory, however, has lately been refreshed as to a peculiar class of such cases, which forms an exception to the general rule, and which is likely to play now-a-days so important a part in the business of our courts that we think it worth while to draw our readers' attention to it. We allude to the liability of an owner for damage caused by such machinery, when the use of it has been sanctioned by the Legislature, in which case it appears, that if the owner use due and proper care for the safe use of the machinery, he will not be liable for any public nuisance or private injury, notwithstanding that the machinery is used not so much for public advantage as private gain. Now that private bill legislation has become so extensive, and begun to play so important a part in the affairs of the country, and especially now that the country is intersected in every direction by railways, we cannot rate too high the importance of the above rule, and need no apology for presenting it to our readers.

As long ago as the year 1832 this question, or rather a branch of it, came before the Courts in the case of *Rees v. Pease*, (4 B. & Ad. 30). In that case it appeared, that by an act of Parliament, reciting that a railway between certain points would be of great public utility, and would materially assist the agricultural interest and general traffic of the country, power was given to a company to make such railway according to a plan deposited with the clerk of the peace, from which plan

they were not to deviate more than 100 yards; and that, by a subsequent act, the company was authorised to use locomotive engines on the railway. The railway was made parallel and adjacent to an ancient highway, and in some places within five yards of it, and it did not appear whether the line could or could not have been made, in these instances, to pass at a greater distance. The locomotive engines frightened the horses of persons using them on the highway, and an indictment was preferred against the company for a nuisance. It was held, that the interference with the rights of the public must be taken to have been contemplated and sanctioned by the Legislature, since the words of the statute authorising the use of the engines were unqualified; and the public benefit derived (whether it would have excused the alleged nuisance at common law or not) shewed, at least, that there was nothing unreasonable in a clause of an act of Parliament giving such unqualified authority. This case, therefore, decided, that where the use of machinery is authorised by an act of Parliament, the owners are not liable to the public for such use being a nuisance; assuming however, of course, (as we shall see from the next case), that the user is a proper one—a point not raised in this case.

Lately, in the case of *Vaughan v. The Taff Vale Railway Company*, nearly the same question has been before the Courts, the difference being, that whereas the former case was one of public nuisance, the latter was one of private injury. The action was brought for damage caused to the plaintiff by firing his wood by means of ashes falling from the engines of the defendants, one count being for negligence, and another for throwing hot coals on the defendants' embankment, knowing that the grass thereon was in a combustible state. It appeared that the grass on the embankment of the railway, and the adjoining land of the plaintiff, was very dry and combustible; that a coal had come from an engine of the defendants, and set fire to this grass, and thus caused injury to the wood; but whether the coal fell on the embankment or the land was not shewn. Everything had been done to make the engine safe; it had a cap to its chimney, its ash-box was secured, and it travelled at the slowest pace consistent with practical utility. The verdict was for the plaintiff, and the defendants obtained in the Court of Exchequer (3 H. & Norm. 743) a rule to shew cause why the verdict should not be set aside, and a new trial had, on the grounds that the verdict was against evidence, that there was a misdirection in telling the jury that no amount of skill and care used to prevent the escape of the coals would answer the charge of negligence, and that the conduct of the plaintiff in allowing his grass to be in a combustible state was immaterial. The Court of Exchequer, on the plaintiff shewing cause, held, that the railway company was liable—a judgment which was reversed on appeal to the Exchequer Chamber, (5 Jur., N. S., part 1, p. 1032); Cockburn, C. J., saying, "I am of opinion that the decision of the Court below cannot be upheld, and there must be a new trial. I collect from the reasoning in the judgment of Bramwell, B., in the court below, that the view taken by that Court is this—that whereas accidents occasionally arise from the use of fire as the means of locomotion, they are to be

considered as a necessary and natural incident to such use of fire, and that therefore the company is liable in respect of the accident from the use of the locomotive, though every possible known precaution has been taken, and are responsible for the accident, in so far as it is necessarily contingent on the use of the locomotive. If this be the view of the case held by the Court of Exchequer, it is one which we cannot uphold, as being at variance with the principle established in *Res v. Pease*, and which this Court maintains and adopts. Although, where a person keeps a dangerous animal or instrument, or other means, whereby danger arises, he is, independently of any actual negligence on his part, liable for the damage done, yet, when the Legislature has sanctioned and legitimatised the use of a certain instrument, provided every precaution has been taken and observed with due and reasonable diligence, it must be held that the person using such instrument is not liable unless there is actual negligence in the use of it. This is the principle which governs the case of *Res v. Pease*, and I think it consonant with reason and justice. As a question of fact, it is admitted that the company, in the use of the fire, endeavoured to protect property from injury by all known means and contrivances, and in my judgment they were not guilty of negligence on the first count. As to the second count, inasmuch as Bramwell, B., said the fire arose from negligence in managing the fire; there is nothing in the case to lead us to suppose that the jury did not find their verdict on the first count, and on that alone, and so the second count was not, in effect, submitted to the jury."

### Imperial Parliament.

HOUSE OF LORDS.—TUESDAY, July 8.

#### MASTERS AND OPERATIVES BILL.

Lord St. Leonards, in moving the second reading of this bill, said it was not anticipated that it would directly operate against such a strike as had lately taken place in London. It was hardly possible for any council of conciliation to give effect to any proposal when a strike had actually taken place, and when each party, exasperated against the other, looked simply to its own means of carrying its own object. But should this bill be passed, and councils of conciliation established, it was hoped that the association of masters and operatives in these councils, in the minor disputes which must arise from time to time, would produce such a good understanding between them as to prevent strikes taking place at all. When they reflected on the mischief and misery which these strikes occasioned, on the pecuniary losses to which they subjected the employers, and on the sufferings and privations which they inflicted upon the men, it was impossible to overrate the enormity of the evil, or the urgent necessity for a remedy. If the relation between masters and operatives was fairly looked at, it would be seen that the operative was really a limited partner in the concern, drawing his share of the profits in the shape of wages, although not responsible for the liabilities of the firm. It was obvious, therefore, that he had a direct interest in the continuance of the business, and that mutual confidence and regard between the employer and employed were essential to the interests of both. The late strike arose out of the demand, on the part of the men, to receive ten hours' pay for nine hours' work, which was refused by the masters. Now, it was not denied that the sacrifice of this hour would involve the loss of so much work; but it was acknowledged that the object of the strike was to compel employers to engage a larger number of men to perform in nine hours the work which now occupied ten; the present rate of wages being

maintained. Such a proceeding was a violation of all the laws of political economy, and, if successful, would remove the question of wages from the natural influence of supply and demand. Many attempts had been made to prevent the evils arising from disputes between masters and workmen, but in vain. In France the attempt had been made with greater success. In 1806 Napoleon established these councils on a new basis. They were composed both of manufacturers and workmen, but the manufacturers had greatly the preponderance of influence. In 1809 the councils were somewhat differently constituted, the overlookers being members of it. In this country the overlookers were understood to be the mere agents of the masters, but in France they were not altogether regarded in that light. In the revolution of 1848 there was, of course, a cry for equality. A new law was passed, placing the masters and workmen on the same footing of equality, and they together formed the council of conciliation. The constitution of these councils established a singular system of cross-voting. The workmen chose nine of their body, out of whom the masters selected three, who represented the workmen. The masters, in turn, had to choose nine of their body, out of whom the workmen selected three, who represented the masters. The workmen chose a president out of the masters, and the masters a president out of the workmen, who presided for three months alternately. This scheme did not work well, and the consequence was, that the present law was passed, upon which the councils of conciliation were now established in France. The councils were elected by workmen who must be twenty-five years of age, who must have worked five years at their trades, and must have resided three years in the district for which they voted. A workman, to be qualified to be elected a member of council, must be thirty years of age, and able to read and write. The president and vice-president were appointed for a term of three years by the Government. In addition to the councils, a bureau de conciliation was established, before whom both masters and workmen were brought. If the parties did not agree, they then went before the council of conciliation, which had judicial powers, so that it could compel the parties to come to an understanding, and to enforce the awards. Imperfect as this tribunal was, it worked a wonderful amount of good in France. A great number of disputes had been satisfactorily settled in the first instance before the bureau, and which consequently never came before the councils at all. These tribunals, however, never had taken cognizance of the question of wages. Sir Joseph Paxton had stated before a committee of the other House that he had to construct a work thirty miles out of Paris. There were 200 French masons employed, and a number of English masons. The English masons were more expert than the French, and the French, finding that they were not obtaining the same wages, became discontented, although they got the highest wages ever earned by masons in France. The case, however, was not one for the councils, and they could not interfere between the parties. Having called their Lordships' attention to the French law, he would briefly state what was the present state of the English law. In the reign of George II all disputes between masters and workmen were referred to justices of the peace. In the reign of George III an act was passed giving masters and men the power of referring disputes to arbitration or to a magistrate. In 1824 a committee sat, which resulted in the passing of the 5 Geo. 4, c. 96, an act which was still the law. By that act referees were to be selected out of many who were nominated, but if the referees could not agree a magistrate was to decide. But by sect. 13 of that act masters and operatives might, by agreement, have recourse to any other mode of arbitration they might choose, and any award made in any arbitration under such agreement could be enforced as legal. The law as it stood gave masters and workmen the option of going before a magistrate to obtain a decision upon their differences, or they could select referees, or they could adopt any other mode of arbitration they pleased. The section to which he had referred had become a dead letter, but the existing law gave all parties power to adopt by agreement any form of arbitration they chose. The necessity of the bill was, that under the section of the present act there must be a fresh nomination of referees to decide upon each particular case. What the masters as well as the operatives desired was a court to which they could have recourse in all cases of dispute. One

objection to the present act was, that it expressly prohibited justices from dealing with questions of wages, except with the consent of both parties. Another objection was, that the act 5 Geo. 4, c. 96, only applied to work done or being done, and did not refer to future contracts. In truth, however, the act was absolutely a dead letter, and even those persons who had been most active in "strikes" were ignorant of the existence of a law which permitted of arbitration in cases of disputes. This bill had been recommended by high authorities. The committee of 1824, which sat thirty-six days, and examined 129 witnesses, reported that the practice of settling disputes by arbitration between masters and workmen had been attended with good effects, and that it was desirable that the laws which direct and regulate arbitration should be considered, and made applicable to all trades. In 1856 a committee, which sat sixteen days, and examined twenty-eight witnesses, reported as follows:—

"From the evidence before them, your committee cannot but arrive at the conclusion that the attention of the Legislature might with advantage be directed to the subject of this inquiry, and are of opinion that the formation of courts of conciliation in the country, more particularly in the large commercial and manufacturing and mining districts, would be beneficial. Your committee would suggest that such a measure might be introduced as an amendment in the present Arbitration Act, by a reconstruction of that act in the 10th and 13th sections, by which means both masters and operatives would be enabled, each from their own class of calling, to appoint referees, an equal number by each party, having power to elect a chairman, unconnected with either side, having a casting vote; such a tribunal to be appointed for a certain period, and not for any particular controversy."

Again: the select committee appointed in the present year, which sat eleven days, and examined fourteen witnesses, came to "the unanimous opinion that the voluntary formation of equitable councils of conciliation would tend to promote a more friendly understanding between the employers and employed, to soften any irritation that might arise, and in most cases to prevent the growth of such a spirit of antagonism as too often leads to a strike;" and they added:—

"Your committee have considered the bill which has been referred to them by the House, and are unanimously of opinion that if the bill passes into a law, it will promote the welfare of, and good understanding between, masters and operatives, and be advantageous to the country."

These three committees of the other House, after much deliberation, and after hearing many witnesses, had all come to the same conclusion, and their opinions would, he hoped, have due weight with their Lordships. In taking charge of this measure he had considered it neither as a workman's nor a master's bill. He was actuated by no class prejudices; but regarded this simply as a great social question; and only recommended the bill because he believed it was calculated to create an amicable feeling between masters and workmen, and to prevent those strikes which were attended with such deplorable results. The provisions of the bill required that the first step should be to go to the Crown for a license. When the license was obtained, the court of conciliation was to have all the powers which now existed under the act of Geo. 4, with the important qualification that the court was to have no jurisdiction unless the question in dispute was submitted to it by both parties; so that the bill would not give any power at all to the court of conciliation unless both parties went before it; but after both parties had chosen to submit any question to the court, there would be power to compel them to go on, although one or the other might wish to withdraw. He denied any one to show that there was any difference in principle between the law as it now stood and this bill, and he therefore trusted their Lordships would allow it to be read a second time.

Lord Rosebury, who had given notice to move that the bill be read a second time that day six months, said that so great was the respect which he bore for the character, abilities, and great legal attainments of his noble and learned friend, that it was with the greatest hesitation that he proposed an amendment; but his noble and learned friend had failed to remove the grave objections to which the bill was open, and for the explanation of which he entreated their indulgence. He denied that the existing law was so imperfect as was alleged. Although the report of a select committee of the House of Commons was, no doubt, entitled to



respect, there might be substantial reasons why their Lordships should hesitate before they gave implicit confidence to the recommendations of such a body. It was quite possible that the members of the committee might have been influenced by prejudice, and might have conducted the examination of witnesses so as to support their own views. He was confirmed in these suspicions by the singular unanimity which prevailed in this committee, and by the fact that the evidence of the only witness who went counter to the views which they entertained was quickly cut short. Parliament ought to give more consideration to this important subject before any new legislation was attempted with regard to it. He held that the present law might be modified and amended so as to meet the requirements of the case, without bringing forward a measure like the present. The great difficulty was to find a fair and impartial tribunal; and in his opinion there were insurmountable objections to the machinery proposed in the bill. The council would, of course, include two antagonistic elements—the representatives of the workmen would uphold one view, those of the masters another. The question was how the chairman was to be appointed. None of the witnesses examined before the committee appeared able to solve the problem. One suggested that the president of the council of conciliation—which, in his belief, would prove only a council of wrangle—should be selected by a lottery. Another proposed that the masters should appoint the chairman one day and the workmen the next; but the result of that proceeding would be simply to reverse the votes on alternate days. The witnesses generally objected to the more rational proposition of arbitration by the justices. The witnesses objected that to go before the justices would have the appearance of a criminal proceeding. But was not this sad trifling? The justices were frequently called upon to decide between masters and servants employed in agricultural husbandry, and a more impartial tribunal could not be found. He believed that a court of petty sessions would be more likely to give a satisfactory judgment than a council of conciliation chosen under the provisions of this bill. There were much graver objections to the bill, which the noble and learned lord seemed to acknowledge when he stated that he should offer some amendments in committee. Let their Lordships reflect upon the number of councils of conciliation which would be necessary. It was stated that there were not less than 400 separate branches of trade in this country, employing no less than 2,695,000 workmen, to whom the provisions of the bill might apply. It was clear, that if councils of conciliation were established, there must be one for every separate branch of trade. A council of conciliation for bricklayers, for example, could not adjudicate upon the disputes of smiths or carpenters. By the 6th clause it was proposed, that, for the purposes of the act, each person, being twenty-one years of age, belonging to the trade having a license for a council, and being an inhabitant householder or part occupier of any house, who had resided and been a master or workman in such trade within the limits of the place in which a council of conciliation was formed, was entitled to be registered as a voter, and qualified to be elected a member of the council. Thus the Legislature was asked to constitute a multitude of small Parliaments, elected by the universal suffrage of all those engaged in trade, who had only to shew that their names were on the registry in order to have the right to vote. The expense of these proceedings would be considerable, and how were they to be borne? There must be a clerk of registration, and how was he to be paid? The bill contained no provisions on this point; but the witnesses examined before the select committee admitted that the working of the act must be attended with considerable expense. Something was said about defraying the expense out of the rates; or, if that were objected to, throwing them upon the Consolidated Fund. The latter proposal was not likely to obtain the consent of the Chancellor of the Exchequer, nor would the magistrates in quarter sessions feel disposed to meet the expenses out of the county rates. That some alteration and amendment might be made in the present law on this subject he did not deny. Those defects, however, would be in no degree remedied by such a measure as the present, and would be, in his opinion, rather aggravated than cured by councils of conciliation chosen under the machinery of the present bill. For these reasons he trusted that their Lordships would not agree to the second reading of the bill; and that, in the words of a series of carefully-drawn objections to the bill, they would not pass "a hastily-prepared

and ill-digested measure, which would probably be attended by disastrous consequences." The noble lord concluded by moving that the bill be read a second time on that day three months.

The Earl of Derby said that his noble friend who had just spoken had stated various objections to the machinery and provisions of the bill; but at the same time he had admitted that the existing law, although not so wholly inoperative as had been supposed, was nevertheless capable of improvement and amendment. For himself, he felt disposed to give a favourable consideration to a measure intended to obviate the mischiefs arising from disputes between masters and the employed. He was the more inclined to vote for the second reading of a bill which was supported by so high an authority as that of his noble and learned friend, (Lord St. Leonards), which had been a matter of long and serious consideration, and which was, moreover, the result of an almost unanimous declaration of opinion by a select committee of the other House. He did not pretend to say that the bill would not in many points require very careful consideration in committee. His noble and learned friend had himself pointed out several provisions that required to be amended in committee, some of which had arisen *per incuriam*, and others in which alterations of an injurious character had been made in committee of the other House. The bill, also, was not free from errors in point of grammar, particularly in the 3rd and the 6th clauses. There were a number of points in the bill which required consideration apart from the principle, for, recollecting that it had been examined by more than one select committee, the bill had appeared with a singular infelicity of expression. At the same time it did, to some extent, meet an evil which was a great and crying one. Therefore, although he was not prepared to deny, even if the second reading were agreed to, that it would be expedient to refer it to a select committee to examine its phraseology and provisions, with a view to render it more acceptable as a legislative act, considering the high authority by which the principle of the bill was supported, the confessed inadequacy of the present law, and the strong desire which was represented to exist among masters and workmen to find some machinery that should remedy the defects of the present law, he would be sorry that their Lordships should summarily reject the bill upon its second reading, and thereby not postpone it for careful consideration, but prevent that consideration being given to it. He would be prepared to support the second reading, but he believed the bill would require serious examination and consideration before he could assent to a third reading.

Lord Granville said, if the question were put for or against the bill in its present shape, he should vote with the noble baron opposite, (Lord Ravensworth), because, upon the admission of all parties, there never was a bill so imperfectly drawn as that which they were considering. In a bill relating to such a delicate matter as the relations between masters and workmen the utmost correctness and nicety of expression were particularly necessary; but this bill was admitted to be so imperfect that it was clear the noble and learned lord had not examined it very minutely before he introduced it. This was a subject on which the working classes took a deep interest, and he would be sorry that the House should appear to treat it lightly or in a summary manner. If he had been rightly informed, however, this bill had been before the other House in three successive sessions, but had failed to pass until the present session, when it was read a third time, the withdrawal of the Reform Bill having given an earlier opportunity than was expected. He did not believe that the bill could be properly considered in the whole House, and therefore he would submit to the noble and learned lord whether it would not be well to refer it to a select committee, in order, if possible, to convert it into a practical measure.

The Lord Chancellor said, that if the bill in its present shape should pass into law, he should rejoice that he was no longer Lord Chief Justice, for a great part of that functionary's time would be occupied in hearing applications for writs of mandamus, of prohibition, and of certiorari arising out of this bill. In fact, the bill would not work at all, and would only make "confusion worse confounded;" but he agreed that it was not desirable to appear to treat the subject lightly, and, in assenting to the second reading, he would

urge upon his noble and learned friend the propriety of referring it to a select committee.

Lord *Ramsden* was willing to withdraw his amendment, upon the understanding that the bill be referred to a select committee.

Lord *St. Leonards* assented to that course.

The amendment was accordingly withdrawn, and the bill was read a second time.

**DAWSON PLANE**, King's Lynn, Norfolk, draper, July 17 and Aug. 14 at half-past 11, London: Off. Ass. Edwards; Sols. Lawrance & Co., 14, Old Jewry-chambers, London.—Pet. f. June 27.

**THOMAS ALFRED PICKERING**, Pigott-street, Limehouse, Middlesex, manure dealer, July 17 at half-past 2, and Aug. 21 at 1, London: Off. Ass. Edwards; Sol. Frost, 138, Leadenhall-street, London.—Pet. f. July 2.

**EMMANUEL MAIGNOL**, Newgate-street, City, photographic agent, July 13 at 11, and Aug. 13 at half-past 11, London: Off. Ass. Pennell; Sol. Aubin, 38, Moorgate-st., London.—Pet. f. July 2.

**SAMUEL PERRY**, Woodfield, Chawley, Shropshire, manure dealer, July 13 and Aug. 3 at 11, Birmingham: Off. Ass. Whitmore; Sols. James & Knight, Birmingham; Potts & Gordon, Bridgnorth.—Pet. d. June 19.

**CHARLES THOMAS COELINS**, Worcester, and Fenchurch-street, London, wine merchant, July 19 and Aug. 9 at 11, Birmingham: Off. Ass. Whitmore; Sols. James & Knight, Birmingham; Jones, Worcester.—Pet. d. June 29.

**JOHN LORD**, Birmingham, commission agent, (trading as John Lord & Co.), July 16 and Aug. 8 at 11, Birmingham: Off. Ass. Kinnear; Sols. Hodgson & Allen, Birmingham; Beale & Marigold, Birmingham.—Pet. d. June 28.

**WILLIAM WHITTINGHAM**, St. Helens, Lancashire, corn miller, (carrying on business with Ambrose Sutton, under the style or firm of Samuel Tomlinson & Co.), July 10 and Aug. 6 at 12, Liverpool: Off. Ass. Morgan; Sols. Evans & Son, Liverpool; Ansdell, St. Helens.—Pet. f. June 28.

**WILLIAM HORMSFIELD**, Manchester, merchant, July 17 and Aug. 3 at 12, Manchester: Off. Ass. Fraser; Sols. Atkinson & Co., Manchester.—Pet. f. June 20.

#### MEETINGS.

*Lesley Alexander and William Bardgett*, Old Broad-st., City, merchants, July 13 at 11, London, and ac. sep. est. of *Lesley Alexander*.—*F. H. Tootal*, Manchester, wine merchant, July 20 at 12, Manchester, and ac.; Aug. 3 at 12, div.—*J. Thorpe*, Ashton-under-Lyne, Lancashire, grocer, July 13 at 12, Manchester, and ac.; July 27 at 12, div.—*J. M'Clure*, Manchester, general merchant, July 18 at 12, Manchester, and ac.; July 25 at 12, div.—*William Barnett*, Brighton, Sussex, gas engineer, July 25 at half-past 11, London, div.—*Charles Jones* the younger, Margaret-street, Cavendish-square, and Great Castle-street, Regent-street, Middlesex, coachbuilder, July 25 at half-past 12, London, div.—*James Bateman*, Southampton-buildings, Middlesex, agent, July 24 at 1, London, div.—*Henry Grant*, Cardiff, Glamorganshire, shipchandler, July 26 at 11, Bristol, fin. div.—*John Dunlop*, Tredgar, Monmouthshire, draper, July 26 at 11, Bristol, fin. div.—*George Rusting*, Manchester, licensed victualler, July 26 at 12, Manchester, div.—*Jas. Wootton*, Leicester, builder, July 19 (and *net* June, as previously advertised), at 11, Nottingham, div.

#### CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*Thos. Voke*, Portsea, Southampton, confectioner, July 26 at 11, London.—*G. Drake*, Eversholt-street, Camden-town, Middlesex, jeweller, July 26 at half-past 11, London.—*James Smith*, Fareham, Hampshire, grocer, July 25 at 1, London.—*Wm. P. Goose*, Downham Market, Norfolk, builder, July 24 at 1, London.—*Mier Bearino and James Picciotto*, New Broad-street, City, merchants, July 24 at 2, London.—*Thos. Mills*, Ashton-under-Lyne, Lancashire, chemist, July 26 at 12, Manchester.—*George T. Lund*, Manchester, commission agent, July 25 at 12, Manchester.—*Frederick Henry Tootal*, Manchester, wine merchant, Aug. 3 at 12, Manchester.—*John Nevens and John Hampton Wilkinson*, Wolverhampton, Staffordshire, drapers, July 26 at 11, Birmingham.—*Thomas*

*Brookes*, Birmingham, boot manufacturer, July 26 at 11, Birmingham.

*To be granted, unless an Appeal be duly entered.*

*James Wenham*, Swaffham, Norfolk, watchmaker.—*Thos. Gurney*, Dover-place West, Dover-road, and Mount-place, Walworth-road, Surrey, tailor.—*James Blackmore*, Wellington, Somersetshire, builder.—*Philip Hawks*, Kinson Lodge, near Poole, Dorsetshire, brickmaker.—*Joseph Chatwin*, Birmingham, gas fitting manufacturer.—*Wm. James*, Dudley, Worcestershire, tool manufacturer.—*James Kealey and Edmund Kealey*, Nuneaton, Warwickshire, tailors.—*John Williams*, Horsley Heath, Tipton, Staffordshire, chemist.

#### PARTNERSHIP DISSOLVED.

*James E. Norris, Charles M. Norris, and Adam Crossfield Foster*, Halifax, Yorkshire, attorneys and solicitors, (as to the said *Charles M. Norris*).

#### SCOTCH SEQUESTRATIONS.

*James G. M'Lean*, Glasgow, merchant.—*A. Drummond*, Glasgow, commission agent.

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## GAZETTES.—FRIDAY, July 6.

## BANKRUPTS.

**HENRY POTTER** and **SAMUEL JAMES JOHN MIND**, Sutton, Surrey, builders, July 13 at half-past 11, and Aug. 15 at 11, London: Off. Ass. Cannan; Sols. J. & J. Hopgood, 14, King William-street, Strand.—Pet. f. July 3.

**ELIAS COHNREICH**, **ASCHER COHNREICH**, and **ISRAEL COHNREICH**, Nassau-place, Commercial-road East, Middlesex, boot manufacturers, July 16 at half-past 2, and Aug. 20 at 12, London: Off. Ass. Pennell; Sol. Sydney, 33, Jewry-street, Aldgate, City.—Pet. f. July 4.

**BENJAMIN GIBBS**, Bermondsey-street, Southwark, Surrey, leather merchant, July 16 at half-past 1, and Aug. 20 at 1, London: Off. Ass. Pennell; Sols. Slee & Robinson, Parish-street, Southwark.—Pet. f. July 4.

**JOHN WALLER**, Hitchin, Hertfordshire, dealer in oil cake, July 16 at 1, and Aug. 20 at half-past 12, London: Off. Ass. Pennell; Sols. Peek & Downing, 10, Basinghall-street, London; Banner, Liverpool.—Pet. f. June 29.

**SIMON SANDER**, St. Mary Axe, City, merchant, July 17 at 2, and Aug. 21 at half-past 12, London: Off. Ass. Lee; Sol. Jones, 20, King's Arms-yard, Coleman-street, London.—Pet. f. July 2.

**BEAUMONT CLAYTON**, Ketton, Rutlandshire, stone merchant, July 19 at half-past 1, and Aug. 21 at 2, London: Off. Ass. Lee; Sols. Law, Stamford, Lincolnshire; Wright & Bonner, 15, London-street, Fenchurch-street, London.—Pet. f. July 3.

**JOHN AUSTEN**, Pierrepont-row, Islington, Middlesex, leather seller, July 23 at 2, and Aug. 21 at half-past 2, London: Off. Ass. Edwards; Sols. J. & W. Butler, 191, Tooley-street, Southwark, Surrey.—Pet. f. July 5.

**BACHEL CHERRINGTON**, Donington, Lincolnshire, druggist, July 17 and Aug. 9 at half-past 11, Nottingham: Off. Ass. Harris; Sol. Maples, Nottingham.—Pet. d. July 3.

**LEWIS PHILIP SUTTON**, Aberavon, Glamorganshire, wine and spirit dealer, July 16 and Aug. 20 at 11, Bristol: Off. Ass. Miller; Sol. Miller, Bristol.—Pet. f. June 20.

**WILLIAM HOUNSFIELD**, (and not Hornsfield, as before advertised), Manchester, merchant, July 17 and Aug. 3 at 12, Manchester: Off. Ass. Fraser; Sols. Atkinson & Co., Manchester.—Pet. f. June 20.

## MEETINGS.

*Edward Smith*, Russell-street, Bermondsey, Surrey, wool-stapler, July 19 at half-past 1, London, pr. d.—*Robert Balantyne*, Liverpool, merchant, July 20 at 11, Liverpool, ch. ass.—*John Wilson*, Sunderland, Durham, shipowner, July 18 at 2, London, last ex.—*Denis N. Vericchio*, Wellington-terrace, Paddington, Middlesex, upholsterer, July 20 at 11, London, last ex.—*George Richardson* and *George T. France*, Huddersfield, Yorkshire, cloth merchants, July 16 at 11, Leeds, last ex. of *George T. France*.—*Peter Taylor*, Saffron Walden, Essex, licensed victualler, July 19 at 11, London, and ac.—*James Hellings*, Edgware-road, Paddington, Middlesex, cowkeeper, July 19 at 11, London, and ac.—*Charles Hollingsworth Tidbury*, Lavender Dock Wharf, Surrey, and Great James-street, Bedford-row, Middlesex, wharfinger, July 19 at 11, London, and ac.—*William Cooper*, Cheriton, near Alresford, Southampton, builder, July 17 at 11, London, and ac.—*Wm. Pymar Goose*, Downham Market, Norfolk, builder, July 24 at 1, London, and ac.—*Stephen Hook*, Farningham, near Dartford, Kent, grocer, July 24 at half-past 1, London, and ac.—*George West*, Wapping, Middlesex, mast and block maker, July 28 at 12, London, and ac.—*Charles Roach*, Devizes, Wiltshire, hosier, July 26 at 11, Bristol, and ac.; July 27 at 11, div.—*Thomas Sampson*, Ham Mills, Stroud, and *W. Barnard*, Highlands, Minchin-hampton, and Stroud, Gloucestershire, shawl manufacturers, July 19 at 11, Bristol, and ac.—*Alexander Waite*, Berwick-upon-Tweed, draper, July 18 at 11, Newcastle-upon-Tyne, and ac.—*Thomas Kirkham*, Albert Mill, Livesey, Blackburn, Lancashire, spinner, July 18 at 12, Manchester, and ac.; July 27 at 12, div.—*Elizabeth Caroline Radford*, *Joshua Radford*, and *Joseph Radford*, Manchester, iron-founders, July 17 at 11, Manchester, and ac. sep. est. of *Joshua Radford*; at 12, and ac. sep. est. of *Joseph Radford*.—*John B. Baldwin*, Whitkirk, Yorkshire, merchant, July

19 at 11, Leeds, and ac.—*John Jackson*, Fleet Mills, Oulton, near Leeds, Yorkshire, corn miller, July 19 at 11, Leeds, and ac.—*Stephen Moss* and *William Ashworth*, Woodmill, Stansfield, Halifax, Yorkshire, fustian cutters, July 19 at 11, Leeds, and ac.—*Henry Pyke*, Newcastle-place, Edgware-road, Middlesex, tailor, July 30 at 11, London, div.—*Thomas Slade* and *Thomas Slade* the younger, Bartholomew-close, Smithfield, London, oil merchants, July 28 at 12, London, div. sep. est. of *Thomas Slade* the younger.—*Thomas C. Jennings*, Ipswich, Suffolk, tea dealer, July 27 at half-past 1, London, div.—*George F. Mills*, Tamworth, Warwickshire, innkeeper, July 30 at 11, Birmingham, and ac. and &c.—*I. H. Bedford* and *Henry Lighton*, Birmingham, cut glass manufacturers, July 30 at 11, Birmingham, div.—*James Clayton* and *Benjamin Lockwood*, Rastrick, Yorkshire, silk spinners, July 30 at 11, Leeds, div.—*Marshall T. Stacey*, Leeds, Yorkshire, dealer in tea, July 27 at 12, Leeds, div.

## CERTIFICATES.

*To be allowed, unless Cause be shown to the contrary on or before the Day of Meeting.*

*Timothy Spencer*, Woolwich, Kent, tailor, July 30 at 12, London.—*William Hunter*, Three Colt-street, Limehouse, Middlesex, ship joiner, July 30 at 12, London.—*Geo. West*, Wapping, Middlesex, blockmaker, July 28 at 12, London.—*Henry Muggieridge*, St. George's-place, Brixton-road, Surrey, builder, July 27 at 12, London.—*J. England*, Upper Charlotte-street, Fitzroy-square, Middlesex, photographic apparatus manufacturer, July 27 at 2, London.—*John Clarke*, *George Oldfield*, and *Robert Oldfield*, Lichfield, millers, July 30 at 11, Birmingham.—*Henry Haywood*, Coventry, Warwickshire, ribbon manufacturer, July 30 at 11, Birmingham.—*William Procter*, Leeds, Yorkshire, linendraper, July 27 at 11, Leeds.—*Stephen Moss* and *William Ashworth*, Stansfield, Halifax, Yorkshire, fustian cutters, July 27 at 11, Leeds.

*To be granted, unless an Appeal be duly entered.*

*William Price Waghorn*, Westerham, Kent, grocer.—*John M'Alpine*, Cheltenham, Gloucestershire, ironmonger.—*Jas. Evans*, Bristol, cattle dealer.

## PETITION ANNULLLED.

*Edward Richards Sherren*, Richmond-villas, Westbourne-grove North, Bayewater, Middlesex, builder.

## PARTNERSHIP DISSOLVED.

*Henry Marriott Richardson*, *Robert Gudgeon Hinnell*, and *John Richardson*, Bolton and Manchester, attorneys, solicitors, and conveyancers.

## SCOTCH SEQUESTRATIONS.

*John Wilson*, deceased, Glasgow, silversmith.—*William Wilson*, Stonefield, Blantyre, Lanarkshire, brickmaker.

## TUESDAY, July 10.

## BANKRUPTS.

**JAMES NUTT**, Leadenhall-street, City, jeweller, (now a prisoner in Whitecross-street Prison), July 20 at half-past 1, and Aug. 20 at 2, London: Off. Ass. Pennell; Sols. Taylor & Woodward, 28, Great James-street, Bedford-row.—Pet. f. July 5.

**JOHN PHILLIPS**, Penton-street, Pentonville, Middlesex, dealer in watches, July 23 at 2, and Aug. 27 at 12, London: Off. Ass. Pennell; Sols. Boulton & Sons, 21A, Northampton-square, London.—Pet. f. June 29.

**HENRY RUDD KNIGHTS**, Bermondsey-street, Surrey, leather merchant, July 24 at half-past 12, and Aug. 21 at 12, London: Off. Ass. Edwards; Sols. J. & J. H. Linklater & Co., 7, Walbrook, London.—Pet. f. July 10.

**THEODORE STREITBERG**, Wilson-street, Finsbury-square, Middlesex, walnut and fancy wood merchant, July 24 and Aug. 21 at half-past 2, London: Off. Ass. Edwards; Sol. Tristram, 18, Barge-yard-chambers, London.—Pet. f. July 9.

**THOMAS PAYNE**, King's Heath, Worcestershire, and Birmingham, grocer, July 23 and Aug. 13 at 11, Birmingham: Off. Ass. Kinnear; Sols. Southall & Nelson, Birmingham.—Pet. d. July 9.

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THE JURIST.

LONDON, JULY 14, 1860.

A BILL was some time since introduced into the Upper House of Parliament, by Lord Brougham, to enable the accused parties in criminal cases to offer themselves as witnesses, and, in that event, render them subject to cross-examination like other witnesses. This bill having been received unfavourably, his Lordship has just introduced a fresh one, by way of substitute for it, which proposes to accord this faculty to accused persons in cases of misdemeanour only. The principle involved in both bills is a most important one, being at variance with the theory and practice of English law from the earliest times; and the question is a branch of a more general one, which has recently been discussed at the Juridical Society, viz. whether the rule of law which prohibits the examination and cross-examination of accused persons in criminal cases is a sound one. It is a question of great difficulty and importance, and much may be urged on both sides.

The advocates on the one side argue as follows:—The rule of law which excluded from bearing testimony not only the parties to suits, but so many witnesses, on the several grounds of infamy, interest in the event of the suit, &c., has been condemned in modern times as wrong in principle. That rule was energetically attacked by Bentham, who laid down as a sacred principle of judicature, that it is the duty of courts of justice to use all available means of getting at the truth of the matters in question, and consequently reject no medium which could tend to help them to that

truth; and the Legislature has adopted this view by abolishing, first, the incompetency of witnesses, and afterwards that of the parties in civil causes, leaving the case of the accused parties on criminal trials almost the sole remaining fragment of the ancient rule, which ought to follow the fate of the others. One reason given for the rule—namely, that the allowing the examination of accused persons would induce a vast amount of perjury—is a weak and insufficient one, and leads to this injustice, that the witnesses for the prosecution depose on oath against the accused, while his mouth is stopped from contradicting them. The accused, being the person best acquainted with the fact of his own guilt or innocence, is naturally the best source to apply to for information on the subject. If he is guilty, a well-conducted cross-examination will wring the fact from him, to the furtherance of public justice; while, if he is innocent, he has nothing to fear from any cross-examination, however severe. And, lastly, in accordance with these views, we find that a rigid interrogation of the accused forms an important part of every criminal trial in France and other continental countries.

On the other side it is urged that the rule laid down by Bentham, however sound as a general principle, is not of universal application, and must be understood with these limitations—first, that by the means of getting at the truth of the matters in dispute must be understood such means as are likely to extract it in causes in general, and not merely in some particular ones; and, secondly, that those means be not such as would give birth to collateral evils outweighing the benefit of any truth they extract. Instances might



easily be quoted from Bentham's works in which he has admitted, though perhaps unintentionally, the existence of these exceptions; and numerous ones are to be found in the judicial practice of all countries where evidence, valuable in itself, is rejected on the ground of the great mischiefs that would result from receiving it; such as secrets of State, confidential communications made by clients to their counsel, evidence too remote to be received without forming dangerous precedents, &c. Admitting, therefore, that an interrogation of the accused would in some cases extract truth, which would be sought for in vain without it—an admission which, as all systems have their advantages and disadvantages, may be made in favour of torture, judicial expurgation, trial by ordeal, &c.—still, if the general effect of the practice would be to give birth to any collateral evils outweighing the advantage derived in these particular instances, the practice should have no place in an enlightened system of judicature. It is a fallacy to look on the accused in the light of a witness; the line of demarcation between them has always been recognised even under the most conflicting systems—as, for instance, the English one, which will not allow the accused to be questioned; and the French one, which, while it subjects the accused to a severe, and often most unfair, interrogation, does not put him on his oath, or treat him as a witness in any respect. And there is good reason for this. The accused, whose conduct is the subject in question before the tribunal, and whose life or liberty depends on the result of the proceedings, stands in a very different position, and does not speak under the same sanctions of truth as the witness, who is a third person coming before it to give information on the matters in dispute. The latter has not the same strong interests to pervert the truth, and speaks with the terror of a prosecution for giving false testimony before his eyes—a terror at which the man whose life or liberty is at stake would only smile. The reason for rejecting the testimony of accused persons is not, as suggested, to prevent individuals incurring the guilt of perjury; for oaths, however beneficial, are not essential to the existence of a court of justice, and the reasons for receiving or rejecting such testimony would equally apply whether they were in use or not. The argument, that under the existing practice a prisoner's mouth is stopped, is a mis-statement of the law; for he is not only allowed, but invited, to say what he pleases in his defence; and, what is more, is accorded a favour which is accorded to no other litigant party, namely, that if he makes an exculpatory statement of facts, the jury are to take it into their consideration, and acquit him if they believe it; whereas all other litigants are held strictly to prove their allegations by evidence. The rejection of the testimony of accused persons rests, chiefly at least, on a different principle from that of interest, being founded on the maxim, which runs through the whole English law, "*Nemo tenetur seipsum prodere*"—a maxim framed not with the view of sheltering guilty persons, as is sometimes represented, but of protecting innocent ones, and carrying out the general policy of the laws. There is an essential difference between civil and criminal cases. A civil case is a dispute between private individuals, who may dispose of their own rights as they please; a criminal one is an affair between the accused and society, whose laws he is charged with having broken; and public policy requires that his conviction should be based, not merely on a preponderance of probability, as in civil cases, but on a moral certainty of his guilt, which can only be expected from independent testimony borne against him, or his own voluntary statements. It is also a mistake to say that an innocent person has nothing to fear from cross-examination, especially when we remember that it would necessarily be conducted by a person vastly his superior in legal knowledge, and pro-

bably in natural capacity likewise, and who might or might not conduct it honestly and fairly. Such a process would often extract falsehood instead of truth; for when a man is suspected of crime, there is a natural tendency in the human mind to run after real or supposed admissions of guilt, and jump to conclusions from them; while weakness of nerves would frequently lead innocent men, but very rarely criminal ones, to falter and become confused in their answers; and to expect that even innocent men would not, under the tremendous pressure upon them, occasionally yield to the temptation of giving false or equivocating answers, and so work their own destruction, is putting too severe a strain on frail human nature. But although evidence extracted from the accused against his will cannot generate that moral certainty on which alone it is safe to act, it can, and is pretty sure to, generate sympathy in his favour, and thus shake public confidence in the administration of the law; while the opposite course, of holding the prosecution strictly to proof of the charge, encourages confidence in the law; and the hearty co-operation of society in its enforcement. The practical result of the suggested course would be to put the burthen of proof on the wrong party; so that when a man became suspected of a crime, instead of searching carefully for evidence against him, as is the case at present, all efforts would be made to escape the necessity of adducing proof by extracting from his own lips something to his prejudice; and mistaken convictions, especially where prosecutions are unfounded, or the result of malice or conspiracy, would be the frequent consequence. For these, and perhaps other reasons, the English law deems it the safest course to allow every accused person to defend himself in his own way, and enable him to say to his accuser, "*If I have done evil, bear witness of the evil.*"

But while, on these grounds, we deem the rule of our law, which prohibits the examination of accused persons, a sound one, we do not look on its present practice as faultless. An accused person ought to be allowed the most ample latitude in defending himself, and this, it appears to us, he does not receive at present, when he is defended by counsel. By the common law, when a prisoner is defended by counsel, in cases where that course is allowable, his own mouth is, unfairly we think, stopped at the trial. A similar practice has been adopted in cases of felony since the Prisoners' Counsel Act, and a construction has been put on that statute which goes far to neutralise its benefits. Several judges have held, that when a prisoner is not defended by counsel, the jury may weigh the credit of any statement he makes in his own defence, although not supported by evidence; but that counsel appearing for him are bound by the same rule as parties and counsel in civil cases, namely, not to state as fact any matter which they are not prepared with evidence to substantiate—a ruling, the effect of which, in many cases, amounts simply to this, that a prisoner, by employing counsel, causes his defence to be suppressed, except so far as it can be suggested in a hypothetical form. It is remarkable, that on charges of high treason the prisoner is asked by the Court, after his counsel have spoken, whether he wishes to add anything for himself.

The principle of Lord Brougham's bill, as already stated, is only an off-shoot of a more general one. It is to be observed that that bill does not empower the prosecution to examine the prisoner as a witness in chief against himself, and thus essentially ignores the principle of Bentham, that every medium of testimony ought to be resorted to. It also affirms the anomalous position, that a party may be a competent witness for one side, although not for the other—an absurdity which might fairly be supposed to have become extinct with the other ancient rules of incompetency.



The bill is avowedly founded on the notion that the accused should be allowed to contradict on oath what is advanced against him on oath, overlooking the immense difference in the respective positions of the accused and the witness; and the recent case of the Rev. Mr. Hatch is cited as an instance where an improper conviction would have been averted had that course been open to the accused. It is, however, by no means clear that there was any defeat of justice in that case, for it has been suggested that it was lost, not through any defect in the law, but in consequence of the counsel for the defendant injudiciously refusing to call witnesses on his behalf. Moreover, although the principal witness was afterwards convicted of perjury, partly on the testimony of Mr. Hatch himself, the rest of the evidence against that gentleman, coupled with the admissions made by himself on oath, on the trial of the witness, which, it is assumed, he would have made on his own if he could have been examined on that occasion, formed an ample case for the jury. Be this, however, as it may, the making laws to meet unusual or extreme cases has been looked on in every age as the characteristic sign of short-sighted and weak legislation; and is in violation of the well-known rule of our own jurisprudence—"Ad ea que frequentius accidunt jura adaptantur," (2 Inst. 137); as well as of the Roman law—"Jura constitui oportet in his que sæpius et plerumque accidunt, non que in parva et inopinata." (Dig., lib. 1, tit. 3, l. 3).

We have thus stated our views on the general question, and on Lord Brougham's bill as a part of it. That many of our readers will disagree with us in the above conclusions is probable enough; but there is one matter connected with the subject on which we trust we shall have the concurrence of all reflecting persons—namely, that as that bill proposes to effect an organic change in a system which has existed and, rightly or wrongly, been lauded for centuries, the expiring month of a session of Parliament, whether accompanied or not by the heat of the dog-days, and the annually recurrent nuisance of the Thames, is not the fit period for its introduction, far less for its discussion.

### THE CONSTITUTIONAL QUESTION.

THE following resolutions have been moved by Lord Palmerston, and voted by the House of Commons; the first and third unanimously, and the second by a majority of 369 to 52:—

1. "That the right of granting aids and supplies to the Crown is in the Commons alone, as an essential part of their constitution; and the limitation of all such grants, as to the matter, manner, measure, and time, is only in them."

2. "That although the Lords have exercised the power of rejecting bills of several descriptions relating to taxation by negativing the whole, yet the exercise of that power by them has not been frequent, and is justly regarded by this House with peculiar jealousy, as affecting the right of the Commons to grant the supplies, and to provide the ways and means for the service of the year."

3. "That to guard for the future against an undue exercise of that power by the Lords, and to secure to the Commons this rightful control over taxation and supply, this House has in its own hands the power so to impose and remit taxes, and to frame bills of supply, that the right of the Commons, as to the matter, manner, measure, and time, may be maintained inviolate."

The Queen has been pleased to appoint William Henry Adams, Esq., to be Chief Justice for the colony of Hong Kong.

### COURT OF CHANCERY.

#### ORDER OF COURT.

Whereas, from the present state of the business before the Vice-Chancellors Sir R. T. Kindersley and Sir W. P. Wood respectively, it is expedient that a portion of the causes standing for hearing before the Vice-Chancellor Sir W. P. Wood should be transferred to the Vice-Chancellor Sir R. T. Kindersley; now I do hereby order that the several causes mentioned in the schedule hereunto subjoined be accordingly transferred from the book of causes standing for hearing before Vice-Chancellor Sir W. P. Wood to the book of causes for hearing before the Vice-Chancellor Sir R. T. Kindersley.

#### SCHEDULE.

CAUSES, &c.	
Stone v. Parker (M D)	Ingram v. Midland Railway Co. (M D)
Deane v. Foster (M D)	Davies v. Marshall (M D)
Williams v. Nicholls (Cause)	Jarvis v. Moore (M D)
Fraser v. Clark (Cause)	Langston v. Cooke (Cause)
Dow v. Baker (M D)	Oakes v. Buckley (M D)
Fairley v. Keith (Cause)	Stadrick v. Sturgis (M D)
Young v. Phillips (M D)	Tompson v. Hope (Cause)
Hutton v. Hutton (M D)	Pickles v. Pickles (Cause)
Richards v. Richards (M D)	Bedwell v. Pondence (M D)
Dalston v. Hedley (M D)	Andrews v. Higgs (M D).

CAMPBELL, C.

### REPORT OF HER MAJESTY'S COMMISSIONERS APPOINTED TO INQUIRE INTO THE MODE OF TAKING EVIDENCE IN CHANCERY, AND ITS EFFECTS.

THE Commissioners appointed by her Majesty to inquire into the Mode of taking Evidence in Chancery, and its effects, have not been able to agree in an unanimous report. We insert the report agreed on by the majority, but are compelled, by want of space, to defer until next week the separate report of Lord St. Leonards.

#### To the Queen's Most Excellent Majesty.

We, the undersigned of your Majesty's Commissioners appointed to inquire into the Mode of taking Evidence in Chancery, and its effects, humbly certify to your Majesty, that by the act passed in the fifteenth and sixteenth years of your Majesty's reign, for amending the practice and course of proceeding in the High Court of Chancery, various extensive changes were made in the mode of taking evidence in that court.

After the system then introduced had been for a short time in operation, complaints were made that it occasioned great expense and delay; and in the year 1854, Lord Cranworth, then Lord Chancellor, called the attention of the late Commissioners for inquiring into the Practice and Procedure of the High Court of Chancery to the subject; and they, in the month of August in that year, submitted to him a memorandum, in which, after stating that the general impression in the Profession appeared to be, that the unquestionable advantages derived from an oral examination of witnesses before the examiner were obtained at too great a cost of time and money, and that the commissioners were disposed to concur in that view of the case, they recommended various changes in the existing system; adding, however, that the proposals then made must be considered as tentative merely, it being their opinion that by experiment alone could the most eligible system be determined.

Pursuant to that memorandum, a General Order of the Court was made on the 13th January, 1855, the object of which was to carry into effect the recommendations of the commissioners.

The commissioners, by their third report, dated the 14th April, 1856, after referring to the memorandum of August, 1854, and the General Order of the 13th January, 1855, which they stated had, as they believed, to some considerable extent removed the evils complained of, proceed to say—"We have, however, to add on this subject, that it is one of great difficulty, and that, in our opinion, further experience is required before it can be determined, with any certainty, what is the best system of taking evidence in the Court of Chancery."

The system introduced by the act of Parliament to which we have referred, modified by the subsequent General Order, has been ever since in operation.

Under this system every party in a cause is now at liberty to verify his case, wholly or partially by affidavit, or wholly or partially by oral examination of witnesses taken before one of the examiners of the court, or before an examiner specially appointed for the purpose; and where any evidence is adduced on affidavit the opposite party is entitled to compel the attendance of the deponent who has made the affidavit, in order to his being cross-examined orally before the examiner, the expense of that attendance being paid in the first instance by the party requiring it, and being part of his costs in the cause.

In addition to the evidence thus adduced, the Court, if it sees fit, may, at the hearing of the cause, require the production before itself of any party or witness, in order to his being examined *viva voce* as to any points on which fuller information may be desired.

In order to satisfy ourselves as to how far this system is open to objection, and if so, then how it may best be amended, we, in the first instance, caused letters to be addressed by our secretary to the various gentlemen who had given evidence upon this part of the subject before the late commissioners, requesting them to inform us what was the result of their experience of the alterations made in pursuance of the suggestions of the commissioners.

The majority of these gentlemen gave us their written opinion on the subject, which we have annexed in the Schedule (A.) to this our report.

We also caused to be made known to the Legal Profession in London our desire to receive written opinions on the subject from gentlemen who had not been examined before the former commission; and we have appended in Schedule (B.), annexed to this report, the opinions which we received in consequence of this intimation.

We considered it, moreover, desirable to ascertain the opinions of solicitors practising in the country; and with that view our secretary addressed letters to members of the Profession in different parts of England, requesting them to collect, and forward to him, the opinions of solicitors in their respective neighbourhoods; and we append in Schedule (C.) the answers we received to those letters.

Several of the commissioners from time to time made written communications to us, expressing their views on the question we had to consider, all of which we have set out in Schedule (D.), annexed to our report.

The inquiries which we have thus made have satisfied us that the present system is open to grave objections.

The course of proceeding before the examiner has led to unnecessary delay and expense; and though these evils might probably be materially diminished by new regulations, enabling the examiner to compel unwilling parties to proceed with greater expedition, yet we do not think that any such changes would go to the root of the evil. In a large part of the cases brought for decision before the Court of Chancery, there are no facts, or very few facts, in dispute; though it must still be necessary, as a security against error, that the

Court should have all facts on which its judgment is to rest established by proof before any decision is come to in the case. For this purpose, evidence taken on affidavit seems to be the most desirable, as being in general more expeditious, and less costly, than evidence obtained in any other form. As a security for its being trustworthy, proper facilities must be afforded to those affected by it, enabling them to cross-examine the deponents by whom the affidavits are made.

With respect to material facts which are disputed, we have come to the conclusion that the only reasonable course is, that the evidence bearing on them should be adduced *ore tenus* before the Court which is to decide on the whole case. We are persuaded that any attempt to remodel or improve the course of proceeding before the examiners would prove illusory. The evil arising from having the evidence taken before one functionary, and its weight and effect decided on by another, is an evil of principle, and not of detail.

We have, therefore, come to the conclusion that the system of taking evidence before the examiners should, except in some special cases, wholly cease, and that all evidence should be adduced either on affidavit or *viva voce* at the hearing.

In order to explain more fully our opinions on the subject of our inquiry, and the mode in which we consider that the existing evils ought to be dealt with, we have agreed on the following resolutions, which we venture respectfully to submit to your Majesty:—

1. That the present mode of taking evidence in the Court of Chancery is unsatisfactory, and in some respects requires alteration.

2. That it is desirable that facilities should be afforded for the trial of material facts contested between the parties upon *viva voce* evidence to be given before the judge who is to decide upon them, or before a jury.

3. That after issue joined in a cause, or in such stage of any proceeding pending in the court as shall by general order be fixed in that behalf, any party, within such time as by general order shall be fixed in that behalf, shall be at liberty, by notice in writing, signed by him or his solicitor, and served on the opposite party or his solicitor, to require that the evidence as to facts or issues specified in such notice shall be taken *viva voce*.

4. That, except as to matters included in such notice, each party may support his case by evidence in chief, adduced on affidavit or otherwise, according to the present practice, subject to the provisions hereinafter contained.

5. That when a party has filed an affidavit in support of his case, any opposing party may, within such time and in such manner as by general order shall be fixed in that behalf, give notice that he requires the production, for cross-examination at the hearing, of the deponent who has made the affidavit; and unless such deponent be then produced, the affidavit shall not be read, unless by special leave of the Court.

6. That any party in a cause may compel the attendance at the hearing of any person whom he may desire to produce as a witness, in the same way as such attendance may now be compelled at trials at Nisi Prius.

7. That at the hearing of the cause the *viva voce* examination and cross-examination of witnesses shall be had in the presence of the judge as to the matters included in any such notice as aforesaid, and affidavits shall only be received of such facts and documents as the judge shall consider not to be included in the terms of the notice.

8. That, except as hereinafter mentioned, all examinations taken by the examiners of the court, or by any special examiner, shall be taken *ex parte*, and no person shall have a right to be present at the taking of any examination except the party producing the witness, his counsel, solicitor, and agents; and that every examination so taken shall be deemed to be an affidavit; and it shall be the duty of the party who has obtained such examination to file the same, which shall thereafter be dealt with in all respects as an affidavit.

9. That the Court at the hearing, or at any rehearing, may require any witness who has made an affidavit, or has been examined, to attend to be orally examined; and may also

direct the trial before the Court, either with or without a jury, or at Nisi Prius, of any issue of fact not proved to the satisfaction of the Court by the existing evidence.

10. That in case of a rehearing or appeal, the judge's notes shall *prima facie* be taken to be a sufficient note of the *viva voce* evidence, but the Court before which such rehearing or appeal is had may supply any defect in the judge's notes by the notes of counsel or otherwise, as it may deem just.

11. That on any rehearing the Court may, if it thinks fit, give leave to any party to adduce further evidence *viva voce*.

12. That where both parties shall agree in desiring that a trial should be had before the Court, with the assistance of a jury, or before a judge at Nisi Prius, and shall agree on the issues to be tried, they shall be at liberty to apply to the Court to order such trial to be so had accordingly, and the Court shall make such order thereon as it shall see fit.

13. That, unless by consent of all parties interested, no examination shall be had before any examiner or special examiner otherwise than as mentioned in the eighth resolution, save only that, by leave of the Court, any person may, in respect of age, infirmity, or other sufficient cause, to be approved by the Court, be examined or cross-examined according to the present practice.

14. That in the case of examinations or cross-examinations under the last preceding resolution it shall be the duty of the examiner of the Court to attend, upon an order of the Court being obtained for that purpose, at any place in England or Wales, for the examination and cross-examination of such witness, and the reasonable expenses of the examiner in that behalf incurred shall be paid to him by the party requiring the examination, and shall be costs in the cause, unless otherwise directed.

15. That wherever notice requiring *viva voce* examination shall have been given by any party under the third resolution, the Court shall determine at the hearing whether, in the circumstances of the case, it was reasonable and proper to give such notice, and shall dispose of the costs occasioned by such notice as it may think just; and if the Court shall be of opinion that such notice was given unreasonably, or for the purposes of delay, oppression, or vexation, it may order costs as between solicitor and client to be paid by the offending party in respect of all expenses occasioned by such notice.

16. That these resolutions shall apply not only to the hearing of causes, but also to motions for a decree; and it shall be lawful for the Lord Chancellor by general order from time to time to direct that the same may be applied to any other proceedings, subject to such modifications as may be necessary.

17. That in all causes and matters in which any infant, married woman, non compos, or person under any other disability, is a party, the consent or admission of the next friend, guardian, or other person acting for the party under disability, shall, if given with the sanction of the Court, or a judge in chambers, have the same force and effect as if given by a person not under disability: provided always, that no such consent of any committee of a lunatic shall be valid, as between himself and the lunatic, without the sanction of the Lord Chancellor or the Lords Justices sitting in lunacy.

18. That none of the foregoing resolutions shall apply to evidence taken in suits to perpetuate testimony.

We regret to add, that one of our members does not concur in our general resolutions, and has himself made a separate report.

All which we humbly submit to your Majesty.

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THOMAS BEESLEY, late of Surrey-street and Clare-coast, Strand, and now of Ranelagh-road, Thames-bank, Pimlico, Middlesex, bottle-crate and case maker, July 20 at 12, and Aug. 21 at half-past 1, London: Off. Ass. Edwards; Sol. Chidley, 10, Basinghall-street, London.—Pet. f. July 6.

THOMAS BROOKES, Birmingham, innkeeper, July 29 and Aug. 13 at 11, Birmingham: Off. Ass. Whitmore; Sol. Sill, Birmingham.—Pet. d. July 6.

WILLIAM THOMAS WILLIAMS, Gregory's Bank, near Worcester, draper, July 20 and Aug. 9 at 11, Birmingham: Off. Ass. Whitmore; Sol. Smith, Birmingham.—Pet. d. June 23.

EDWARD WHERRY, Market Deeping, Lincolnshire, grocer, July 26 and Aug. 16 at half-past 11, Nottingham: Off. Ass. Harris; Sols. Brown, Market Deeping; Bowley & Ashwell, Nottingham.—Pet. d. July 6.

#### MEETINGS.

John Slack Warburton and William Stevenson, Manchester, timber merchants, July 24 at 12, Manchester, aud. ac.; July 31 at 12, div.—Thomas Hunter, Rochdale, Lancashire, grocer, July 25 at 12, Manchester, aud. ac.; July 31 at 12, div.—John Pack, Birmingham, brass-cock founder, July 20 at 11, Birmingham, aud. ac.—Thomas Coates, Bridge-road, Lambeth, Surrey, linen-draper, Aug. 1 at 11, London, div.—Thomas Coleman, Highwood, Yarpole, Herefordshire, and Edw. Wellings, Sudlow, Shropshire, bankers, July 31 at 12, London, fin. div.—William Birt, Liverpool, shoemaker, July 31 at 11, Liverpool, div.

#### CERTIFICATES.

To be allowed, unless Cause be shown to the contrary on or before the Day of Meeting.

Jonathan Hodge, Helston, Cornwall, silversmith, Aug. 6 at 1, Exeter.—Charles Jones, Manchester, boot and shoe maker, Aug. 2 at 12, Manchester.—Robert Luke Tyler, Spalding, Lincolnshire, wine merchant, July 31 at half-past 11, Nottingham.—George Jervis, Thomas Leese, and William Henry Bradbury, Longton, Staffordshire, china manufacturers, Aug. 2 at 11, Birmingham.—William Kirk, John Wale, and John Kirk, Mountsorrel, Leicestershire, coal merchants, July 31 at half-past 11, Nottingham.—Daniel Swift, Deeping St. James, Lincolnshire, butcher, July 31 at half-past 11, Nottingham.—Samuel Freeman and John Clifford, Leicester, elastic web manufacturers, July 31 at half-past 11, Nottingham.—John Eeles, East Butterwick, Lincolnshire, stonemason, Aug. 1 at 12, Kingston-upon-Hull.

To be granted, unless an Appeal be duly entered.

Ebenezer Kempster Mackenzie Griffiths and Francis T. Griffiths, Gracechurch-street, London, and Liverpool, shipowners.—Tristram Powning, Truro, Cornwall, grocer.—J. Underhill, Plymouth, Devonshire, ironmonger.—H. Zeltner and Joseph Shiers, Manchester, fancy trimming manufacturers.—John Boucher, Blackwell, Derbyshire, dealer in timber.—Thomas Lofthouse, Sheffield, Yorkshire, coal dealer.—Joseph Kershaw and William Geo. Kershaw, Wakefield, Yorkshire, stonemasons.—Geo. Allen, Bardney, Lincolnshire, grocer.—James Merriman, Hyson-green, Nottinghamshire, lace manufacturer.—Daniel Bishop Crick, Leicester, builder.—John Machin Hall, Sheffield, paper dealer.

#### PETITION ANNULLED.

James Gibson, Todmorden, Yorkshire, manufacturer.

#### PARTNERSHIPS DISSOLVED.

John North, Palgrave Simpson, and Frederic North, Liverpool, attorneys and solicitors, (so far as respects the said John North).—Henry Hill and R. G. Matthews, Bury-court, St. Mary Axe, London, attorneys and solicitors.

#### SCOTCH SEQUESTRATIONS.

Robert Edward, Skair, near Forfar, cattle dealer.—D. King & Co., Camblachie, Glasgow, manufacturing chemists.—Messrs. Turnbull & Murray, Hawick, accountants.—Walter Rodger, Glasgow, tobaccoist.—James Dunnet, Thurso, shipmaster.—George Tash Tweed, Linlithgow.

The Lord Chief Justice of England has appointed Thomas Norton, Esq., of the Home Circuit, (formerly Chief Justice of Newfoundland), a Master of the Crown Office in the Court of Queen's Bench.

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## GAZETTES.—FRIDAY, July 13.

## BANKRUPTS.

FREDERIC GEORGE ORCHARD and GEORGE FREDERICK CUNNINGTON, Brick-lane, Old-street, St. Luke's, Middlesex, rick-cloth manufacturers, July 23 and Aug. 28 at 12, London: Off. Ass. Lee; Sol. Underwood, 90, Chancery-lane, London.—Pet. f. July 10.

OSCAR REWMAN, Martin's-lane, Cannon-street, City, merchant, (trading under the style or firm of Rewman Brothers, but now a prisoner for debt in the Queen's Prison), July 24 at half-past 11, and Aug. 21 at 12, London: Off. Ass. Lee; Sol. Billing, 33, King-street, Cheapside, London.—Pet. f. July 9.

THOMAS PORTER, Beauvoir-place, Kingsland, Middlesex, chair maker, July 28 and Aug. 28 at 1, London: Off. Ass. Lee; Sols. Mason & Co., 7, Gresham-street, London.—Pet. f. July 11.

PHILIP WAMSLEY, THOMAS HAMMERSLEY, and FREDERICK HAMMERSLEY, Leek, Staffordshire, silk manufacturers, (trading under the firm or style of Wamsley, Hammersley, & Co.), July 26 and Aug. 16 at 11, Birmingham: Off. Ass. Klunear; Sols. Redfern & Sons, Leek; Collis & Ure, Birmingham.—Pet. d. July 5.

ARTHUR BELLAIRS HARRIES and WALFORD ARBOUIN HARRIES, Pembroke Dock, Pembrokeshire, timber merchants, July 24 and Aug. 21 at 11, Bristol: Off. Ass. Miller; Sols. Rees & Davies, Haverfordwest; Edwards & Nalder, Bristol.—Pet. f. July 7.

CHARLES LE BATT, Exeter Barracks, Exeter, messman; July 26 and Aug. 30 at 11, Exeter: Off. Ass. Hirtzel; Sol. Willesford, Exeter.—Pet. f. July 10.

JACOB ALEXANDER ALEXANDER, Exeter, china dealer, July 26 and Aug. 30 at 11, Exeter: Off. Ass. Hirtzel; Sol. Willesford, Exeter.—Pet. f. July 12.

WILLIAM GEORGE YOUNG, Bangor, Carnarvonshire, brewer, July 24 and Aug. 14 at 11, Liverpool: Off. Ass. Cazenove; Sols. Dodge & Wynne, Liverpool; Roberts & Co., Bangor.—Pet. f. June 28.

JEREMIAH WINKS, Newcastle-upon-Tyne, wine merchant, July 19 and Aug. 15 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Story, Newcastle-upon-Tyne; Vincent, 4, Lamb-buildings, Temple, London.—Pet. f. July 2.

JAMES TAYLOR ROGERSON, Salford, Lancashire, cotton dealer, July 26 and Aug. 23 at 12, Manchester: Off. Ass. Hernaman; Sol. Boote, Manchester.—Pet. f. July 4.

JOHN LAMB, Pendleton, Lancashire, grocer, July 27 and Aug. 30 at 12, Manchester: Off. Ass. Hernaman; Sol. Boote, Manchester.—Pet. f. July 10.

## MEETINGS.

*Thomas Innocent*, Bedford-street, Covent-garden, Middlesex, July 25 at 12, London, last ex.—*George C. Bingham*, Nottingham, boot manufacturer, July 31 at half-past 11, Birmingham, last ex.—*John Ross*, Truro, Cornwall, draper, Aug. 6 at 1, Exeter, last ex.—*Thomas Voke*, Portsea, Southampton, confectioner, July 26 at 11, London, and. ac.—*Thos. Coates*, Bridge-road, Lambeth, Surrey, linen-draper, July 26 at 12, London, and. ac.—*James McClure* the younger, Manchester, Manchester warehouseman, July 25 at 12, Manchester, and. ac.—*Thomas Brookes*, Birmingham, shoe manufacturer, July 26 at 11, Birmingham, and. ac.—*W. Jackson*, Kildarminster, Worcestershire, victualler, July 26 at 11, Birmingham, and. ac.—*Louis Cook*, Great Cambridge-street, Hackney-road, Middlesex, shoe manufacturer, Aug. 3 at 11, London, div.—*Henry Harvey*, Hatton-garden, Holborn, Middlesex, lamp manufacturer, Aug. 3 at 1, London, div.

## CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*Louis Cook*, Great Cambridge-street, Hackney-road, Middlesex, shoe manufacturer, Aug. 3 at 11, London.—*Henry Harvey*, Hatton-garden, Holborn, Middlesex, lamp manufacturer, Aug. 3 at 1, London.—*Wm. Smith*, South Shields, Durham, shipowner, Aug. 7 at half-past 11, Newcastle-upon-Tyne.—*George H. Walton*, Somerton, Somersetshire, linen-draper, Aug. 6 at 1, Exeter.—*John Yates*, Oldbury, Worcestershire, grocer, Aug. 6 at 11, Birmingham.—*Sophia Anne*

*Aulton*, Nottingham, smallware dealer, Aug. 7 at half-past 11, Nottingham.—*Joseph Stator*, Leeds and Oulton, Yorkshire, stone merchant, Aug. 6 at 12, Leeds.—*Kershaw Noble*, Northowram, Halifax, Yorkshire, joiner, Aug. 6 at 11, Leeds.

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## TUESDAY, July 17.

## BANKRUPTS.

FRANCIS BENNETT JOHN READ, Leadenhall-market, London, and Upper North-street, Bethnal-green, Middlesex, butcher, July 26 at 12, and Aug. 28 at 2, London: Off. Ass. Edwards; Sol. Selsby, 2, Fen-court, Fenchurch-street, London.—Pet. f. July 12.

JOHN GILES SULLIVAN, Blackman-street, Southwark, Surrey, boot manufacturer, July 31 at 1, and Sept. 4 at 12, London: Off. Ass. Lee; Sol. Abrahams, 17, Gresham-st., London.—Pet. f. July 14.

WILLIAM KILBY, Church-end, Willesden, Middlesex, contractor, (now a prisoner in the Queen's Prison), July 26 at 11, and Aug. 28 at half-past 1, London: Off. Ass. Lee; Sol. Melton, 6, Bedford-row, Holborn, London.—Pet. f. July 5.

LEWIS LEVY, formerly of Savannah, United States of America, late of Gravel-lane, London, merchant, July 26 at half-past 11, and Aug. 28 at half-past 12, London: Off. Ass. Lee; Sols. Lawrance & Co., 14, Old Jewry-chambers, London.—Pet. f. July 14.

BENJAMIN JAMES, Brierly Hill, Staffordshire, currier, July 27 and Aug. 17 at 11, Birmingham: Off. Ass. Whitmore; Sols. Horner, Brierly Hill; Hodgson & Allen, Birmingham.—Pet. d. July 16.

JESSE COOPER, Newport, Monmouthshire, outfitter, July 27 and Aug. 28 at 11, Bristol: Off. Ass. Acraman; Sol. Brittan & Sons, Bristol.—Pet. f. July 10.

WILLIAM HENRY EDMONDS, Wroughton, Wiltshire, horse dealer, July 31 and Sept. 4 at 11, Bristol: Off. Ass. Miller; Sols. Kinneir, Swindon; Prideaux, Bristol.—Pet. f. July 14.

GEORGE HOLGATE, Halifax, Yorkshire, grocer, July 30 and Aug. 27 at 11, Leeds: Off. Ass. Hope; Sols. Holroyd & Cronhelm, Halifax; Bond & Barwick, Leeds.—Pet. d. July 13.

JOHN WILLIAM ARMSTRONG, Manchester, yarn agent, Aug. 15 and 30 at 12, Manchester: Off. Ass. Hernaman; Sol. Richardson, Manchester.—Pet. f. July 14.

GEORGE FREDERICK JAMES, Manchester, elastic web manufacturer, July 31 and Aug. 16 at 12, Manchester: Off. Ass. Pott; Sol. Richardson, Manchester.—Pet. f. July 6.

## MEETINGS.

*John Hopton Wyld*, Bristol, wine merchant, Aug. 17 at 11, Bristol, pr. d.—*Francis Ward*, Nottingham, victualler, Aug. 7 at half-past 11, Nottingham, last ex.—*Wm. Grindy* the younger, Longnor Edge, near Longnor, Staffordshire, cattle salesman, July 27 at 11, Birmingham, and. ac.—*Sophia Anne Aulton*, Nottingham, smallware dealer, Aug. 7 at 11, Nottingham, and. ac.—*Thos. Stacey*, Leeds, dealer in tea, July 27 at half-past 11, Leeds, and. ac.—*Thos. Swift*,

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THE JURIST.

LONDON, JULY 21, 1880.

SOME most interesting discussions from time to time take place in our courts upon the doctrine of legal and equitable waste. An important case upon this subject has recently been decided by Sir W. P. Wood, V. C., which well deserves our examination. We allude to the case of *Turner v. Wright*, (6 Jur., N. S., part 1, p. 647). There it appears that a testator devised a mansion-house and estates, with the appurtenances, to A. in fee, with an executory devise over, in the event of his dying without leaving issue living at the time of his decease, to his sister B. (since deceased) for life, *without impeachment of waste*, with remainder to the use of the plaintiff in fee; and there was a proviso that the plaintiff should, within one year after becoming entitled to the possession, or to the receipt of the rents and profits of the estates, take the name and arms of the testator, or forfeit all interest in the estates.

Upon a bill being filed by the plaintiff, praying an injunction to restrain A. from cutting down or injuring any of the trees, &c. standing on the estates, or, as an alternative, from cutting down any ornamental timber, or tree or trees unripe for cutting, it was held by the Vice-Chancellor that A. might commit legal but not equitable waste. In other words, his Honor held that A. was entitled to fell all such timber on the devised estates as was mature and fit to be cut, but not such as had been planted or left standing for orna-

ment or shelter, with reference to the occupation of the mansion-house on the devised estate. His Honor, in giving judgment, said he did not think it necessary, in the case before him, to determine whether a legal tenant in fee, subject to an executory devise over, could, in a case where no intention on the part of the testator is expressed, be restrained from committing legal waste.

In the case before him, his Honor thought that it was manifest, that, on giving over the fee-simple on an executory devise to the plaintiff, the testator did not mean him to take it exactly in the same state in which it was, with all the timber standing thereon; that there might have been something of an easier contention for B., the testator's sister, who took an estate immediately preceding that of the plaintiff, because he gave the estate over, in the event of A. dying without leaving issue, to his sister for life, without impeachment of waste; and it was only after that estate that he gave anything to the plaintiff. "It appears to me," says his Honor, "to be impossible to say that the legal right which the fee-simple estate confers can be interfered with, when I find the next limitation uses express words for the purpose of conferring that right, because without these words the tenant for life could not have it. I must assume that the testator had a reason for giving the fee—that he did intend to confer the legal right, which he gives by express words in the next limitation; and there is nothing in this will that can justify me in saying that the right of the tenant in fee is to be interfered with where no words are necessary to give that right."



His Honor thought that the question with regard to equitable waste was very different, "because," said his Honor, "the testator gives the mansion-house, with the appurtenances, in fee, subject to the executory devise; and in the event of the devisee dying without leaving issue, he says, 'I devise the said mansion-house and estates, with the appurtenances, over;' and there is the name and arms clause, and everything to shew that this is to be the capital mansion-house of the family. To suppose, therefore, that because this gentleman is tenant in fee-simple he can pull that house down under these circumstances, I apprehend, would be something too monstrous for any Court to arrive at on the mere construction of the will. On the executory devise taking effect, *the estate is to go over as it exists*, as far as the mansion is concerned. Having got so far, taking it on the construction of the will, you would go far to arrive at the conclusion, that 'the mansion-house, with its appurtenances,' meant the mansion-house, together with all that which this Court has been in the habit of considering as ornamental with reference to the mansion-house."

After a careful consideration of his Honor's judgment in this case, we cannot but arrive at the conclusion that the question as to legal and equitable waste falls within precisely the same category, and that both ought to have been decided in the same way—viz. that the tenant in fee, with the executory devise over to the plaintiff, ought to have been restrained from committing waste of any kind.

With regard to the abstract point, as to whether a tenant in fee, with an executory devise over to another, can, in the absence of any intention to be gathered from the will, be restrained from committing waste, his Honor, it will be observed, stated that he would not give any opinion.

Upon principle, we should have thought that such tenant in fee could not commit waste. He cannot, it is clear, by any means alien the estate; and as the timber is part of the estate, it is difficult to conceive how he could alien that, or, if he could not alien, that the Court of Chancery would not interfere to protect it for the benefit of the person who, in certain events, might become entitled to the estate of which it forms a part. In other words, the accessory follows the fate of its principal.

The power of committing waste is simply the power of aliening part of the estate. To some estates, as ordinary estates in fee and ordinary estates tail, it is incident; to other estates of a more limited character, as estates for life, it may be annexed, as where an estate is given to a person without impeachment of waste.

But as no one could for a moment contend that a tenant in fee, with an executory limitation over, could alien a single rood of the estate, so as to defeat the interest of others who are to take in certain events, it appears to us just as difficult to conceive that he could sell or cut down timber, which is as much a part of the estate as a rood of ground.

With regard to the authorities, we think that they support the conclusion at which we have arrived, independent of them. In the case of *Robinson v. Linton* (3 Atk. 202, where the case seems to be best reported) the testator devised lands to his son *in fee*, and in case

he should not live to twenty-one, and die without issue, he gave the lands to his daughters, (who were the plaintiffs), with several remainders over. Then he goes on, and says, "My will is, in case my son shall not attain twenty-one, my estate shall be sold, and the money divided among my daughters, for an augmentation of their fortunes;" and he gave to his daughter 10,000*l.* besides. Lord Hardwicke granted an injunction to restrain the son (who had not come of age) from cutting any timber. "As to the intention of the testator," said Lord Hardwicke, "he certainly had not the least thought that the son, *before his age of twenty-one*, should fell all the timber upon the estate. *The inheritance is constituted of the land, and the timber upon it, and that is devised to be sold for the benefit of his daughters.* The intent was to give the value of the estate at the time it was devised."

Again, in *Stansfield v. Haberyham*, (19 Ves. 273), Lord Eldon states it to be the doctrine of the Court, "that where there is an executory devise over, even of a legal estate, the Court of Chancery will not permit the timber to be cut down, more especially not if there is an executory devise of the trust estate." This may be only a dictum, but the dicta of Lord Eldon are rarely inaccurate, and, from his great learning, experience, and caution, are entitled to almost as much respect as the decisions of some of his predecessors.

Does, then, the testator in the case now under consideration shew any intention that the inheritance—that is, the land and timber—should not go over entire to the plaintiff? For we fully agree with Lord Hardwicke's definition, that "the inheritance is constituted of the land, and the timber upon it." In the absence of such intention, we consider that it would be both contrary to principle and authority to allow waste.

In this case it is clear that no express power to commit waste is given, except to the tenant for life, since deceased. Does, then, the testator, by necessary implication, confer such power upon the first taker of the estate? We cannot think, notwithstanding the judgment of the Vice-Chancellor, that he has done so, even in the case of legal waste; and, so far as ornamental timber is concerned, the Vice-Chancellor is of the same opinion.

His Honor's judgment seems to proceed upon reasoning something of this kind, viz. that because the tenant for life was made unimpeachable of waste, and could therefore commit legal waste, the testator did not intend the plaintiff to take the inheritance in precisely the same condition as he left it in. This may be so in a certain event, namely, of the tenant for life coming into possession before the plaintiff; but it does not follow, that because, in such an event, power was given to the tenant for life to commit waste, a similar power should, by implication, be considered as given to the first taker of the estate.

It appears to us, that if there had been first a mere tenant for life, then a tenant for life without impeachment of waste, with remainder over to a third person in fee, it might just as well be argued that because the third taker was evidently not intended to take the inheritance intact, because the second tenant for life was unimpeachable for waste, therefore the first tenant for life might fell timber.

In conclusion, we think that no clear intention on the part of the testator, either express or implied, is to be gathered from the words of the will, to enable the first taker to commit waste; on the other hand, we are inclined to think the intention to be rather the other way; for what would be the use of making the tenant for life unimpeachable of waste if the first taker could denude the estate of all the timber? In the absence of such intention, the reasoning of his Honor against allowing equitable waste appears to us to be equally conclusive against permitting legal waste.

We observe that after the remarks we made in two former articles upon Lord Cranworth's Trustees and Mortgagees Bill, the bill, which had been apparently approved of by the House of Lords, was re-committed to a committee of the House, and its most objectionable clauses, to which we called attention, were removed or amended. For instance, the powers given to trustees having a power of sale were limited to cases where such power is express. The power of exchange is no longer made incident to a power of sale; and the clause which enabled trustees, having a power of sale, to enfranchise copyholds, and to demise the same on building or improving leases for ninety-nine years, has been omitted altogether; in other words, the absurdity of attempting to make a power of enfranchisement and of leasing for ninety-nine years incident to a power of sale will not be attempted.

The 11th section of the bill, which we pronounced unintelligible, has been altogether withdrawn.

Although the bill has been considerably improved, it is still, we think, defective in construction and wrong in principle.

Our correspondent "M. I. B." very much misunderstands us if he supposes that we considered that the bill would, in the event of its passing, (a most unlikely contingency), remain a dead letter from any unworthy motive on the part of conveyancers, or other legal practitioners. We do think, however, that conveyancers, by inserting a clause in every instrument, taking it out of the operation of such an enactment, would, on the part of their clients, act with a wise discretion, and would, in the long run, save their clients from litigation, which would be, in many cases, almost the necessary consequence of their adopting a different course.

The amendments made recently in the bill in the House of Lords show clearly its defective, and even dangerous, state as first drawn, and do not induce us to place much confidence in Lord Cranworth as a legislator in matters affecting real property. Conveyancers and solicitors would, we think, act incautiously (if the bill passes) to adopt it, or, we should rather say, if they did not prevent its operation in almost every, if not in every, case. We do not see why, for the purpose of effecting some insignificant saving, a conveyancer should subject his client to the chances of litigation, and use him as a *corpus vile*, as a subject for the experiment of rash legislation. We cannot, however, suppose that Lord Cranworth's bill will pass the House of Commons, or that it will not be numbered amongst those legislative innocents whose slaughter precedes, by no long intervening period, the 12th August.

## REPORT OF HER MAJESTY'S COMMISSIONERS APPOINTED TO INQUIRE INTO THE MODE OF TAKING EVIDENCE IN CHANCERY, AND ITS EFFECTS.

(Continued from p. 267).

In our last number we gave the Report of the majority of the Commissioners appointed by her Majesty to inquire into the Mode of taking Evidence in Chancery, and its effects. Lord St. Leonards differs from his brother commissioners, and has made the following separate Report for himself:—

### To the Queen's most excellent Majesty.

I, one of your Majesty's Commissioners appointed to inquire into the Mode of taking Evidence in Chancery, and its effects, humbly certify to your Majesty that in the act passed in the fifteenth and sixteenth years of your Majesty's reign, referred to in the Report of your Majesty's other commissioners, special directions are contained for the examination of witnesses orally before one of the examiners of the court, where the evidence is not taken by affidavit, in the presence of the parties, their counsel, solicitors, or agents; and the witnesses so examined are to be subject to cross-examination and re-examination, and a witness who has sworn an affidavit is made subject to oral cross-examination before the examiner. The Court has power to require the production and oral examination before itself of any witness or party in the cause; but at present it rests wholly in the discretion of the judge whether there shall be any examination in open court; neither party can insist upon it. Your Majesty's late Commissioners for inquiring into the Practice and Procedure of the High Court of Chancery, in their memorandum referred to by the Report now before your Majesty, stated that the general impression was, that the unquestionable advantages derived from an oral examination of the witnesses before the examiner were obtained under the present system at too great a cost of time and money, and in this view they were disposed to concur. For the reasons which they state, they would object to the evidence being taken in open court, and they proposed certain alterations with a view to save time and money, but still altogether retaining the examination before the examiners, and their recommendations were carried into effect by general orders, which authorised either party to proceed by affidavit. This rule diminished in a very material degree examinations in chief, and increased in a still greater degree cross-examinations, and the time of the examiners is now principally occupied in taking cross-examinations upon affidavits.

I agree with your Majesty's other commissioners, that the course of proceeding before the examiners has led to unnecessary delay and expense; but I regret to say that I cannot concur in submitting to your Majesty the resolutions upon which they have agreed. By their eighth resolution all examinations taken by the examiners are to be taken *ex parte*, and no person is to have a right to be present at the examination except the party producing the witness, his counsel, solicitor, and agents, and every examination so taken is to be deemed to be an affidavit, and is to be dealt with as such. The thirteenth resolution provides, that, unless by consent of all parties, no examination shall be had before any examiner, except as mentioned in the eighth resolution, save only that by leave of the Court any person may, in respect of age, infirmity, or other sufficient cause, be approved by the Court, be examined or cross-examined according to the present practice. These resolutions would, if carried into effect, operate to a large extent as a repeal of the statute of 1852. Of course, no one would avail himself of the power re-

served to him by the eighth resolution, of being present at the examination *ex parte* by the examiner with his witness, counsel, solicitors, and agents, for the examination would operate only as an affidavit, which could be made without any resort to the examiner.

The third resolution of the Report is, that any party shall be at liberty to give notice to his opponent that he requires the evidence as to facts or issues specified in such notice to be taken *viva voce*; and the abuse of this privilege is, by the fifteenth resolution, proposed to be prevented by the power to inflict costs. The fifth resolution gives power to an opposing party to give notice that he requires the production, for cross-examination at the hearing, of the deponent who has made an affidavit; and the seventh resolution provides, that at the hearing of the cause the *viva voce* examination and cross-examination of witnesses shall be had in the presence of the judge as to the matters included in any such notice.

If these resolutions should be adopted by the Legislature, they would apparently render the offices of the examiners all but a sinecure, and practically impose their important duties on the Court itself. The threat of costs will not prevent parties from insisting upon the examinations being taken orally before the Court; and where one party commences by an affidavit, the other would have a right to cross-examine before the Court; so that a hearing with *viva voce* evidence in open court could always be obtained without having recourse to the right provided by the third resolution, which might expose the party to costs under the fifteenth resolution. The numerous cross-examinations which now take place before the examiner would not only be transferred to the judge in open court, but would be increased, as examinations before the examiner would only operate as affidavits.

The constant demand on a judge in equity to decide upon points of law, and to consider the bearings of the evidence, requires quiet and calm in the Court itself. The course of the Court should not be interrupted by addresses to a jury, the introduction of common-law counsel, and all the wrangling of trials at *Nisi Prius*. Courts of law are enabled to avoid the interruptions which would arise in courts of equity were they compelled to summon juries or constantly to hear *viva voce* evidence. The equity judges have not only to transact in court all the important legal business which comes before them, but to follow it into chambers, and see that the decrees of the Court is properly carried out—a duty which until 1852 was not imposed upon them. If, as proposed, there should now be added the constant hearing in court of *viva voce* evidence, and sometimes with juries, and necessarily the taking notes of the evidence for their own use, and to be used on appeals and rehearings, it may be found that more duties are imposed on those judges than any man can fairly be required to perform. Under the existing law, evidence may be by affidavit or by written depositions, or *viva voce* before the Court, with or without a jury, with full powers of cross-examination. But these powers are properly, as it seems to me, under the control and direction of the Court.

The principal objections to the present system before the examiners are delay and expense. But it has not yet had a fair trial, and it has been abused by the suitor. There is very great delay, and yet the examiners have half their time unemployed. This arises, first, from a faulty mode of procedure: Every case has a day appointed for it, and consequently it is only at the end of a long list that any new suitor can obtain an appointment. Suitors themselves are answerable for the second cause of delay; they are constantly in the habit of neglecting to keep their appointments, and frequently abandon their privilege.

In 1858, out of 255 appointments taken out before the

examiners, 118 were unattended; 137 only were therefore attended out of 255; and every one of these unattended appointments stopped the whole course of business.

It appears to me, therefore, that the law of 1852 has not yet been fairly tried, and that we should consider, not what substitute we can find for it, but how we can work it to advantage, and, as far as may be expedient, improve it. In this view I would beg to suggest as follows:—

1. That the examiners should be put in possession shortly of the points to be proved. The desire to get rid of the old method of pleading has led to uncertainty of what are the issues to be tried. It would hardly be an improvement to adopt the Scotch plan, and thus introduce a still more burthensome scheme of paper warfare.

2. That in case of any abuse—e. g. the cases mentioned by the examiners in their evidence, of seventeen days' evidence, and of cross-examination of one witness four days and a half—the examiner should communicate with the judge, who should, if he deem it expedient, order the examination before himself.

3. That every case should be heard successively and continuously. No appointment to be made except for short matters, or for long cases by arrangement with both parties.

4. At ten o'clock every morning short cases to be taken, according to a previous list.

At eleven o'clock the cases in their order to be taken, according to a previous list of the day, and to be disposed of as in court. Absence of counsel or of witnesses to be dealt with as if the case were before the Court.

If the Court were to hear the evidence *viva voce*, of course the same strictness would prevail as upon a trial at law. There is no reason why the same strictness should not prevail before the examiner.

5. The lists to be made out so as to prevent unnecessary expense and delay. How to accomplish this would soon be ascertained from communications with the solicitors.

If the order of 1857 were rescinded the cross-examinations on affidavits would be reduced in number.

No party or parties in the same interest should attend by more than one counsel before the examiner.

A strict control should be kept over the costs of cross-examination on affidavits.

It would, perhaps, save expense if examinations in chief were to be made upon interrogatories, as under the old practice.

Both parties should be at liberty to apply for an issue, subject to proper regulations.

I may refer to the opinions of your Majesty's Commissioners for inquiring into the Practice and Procedure of the High Court of Chancery in support of the views which I have taken of this subject.

All which I humbly submit to your Majesty.

ST. LEONARD.

**JURIDICAL SOCIETY.**—The next meeting of this society will be held on Monday, the 6th November.

**LAW AMENDMENT SOCIETY.**—The next general meeting of this society will be held on Monday, the 12th November.

**COMMISSIONERS TO ADMINISTER OATHS IN CHANCERY.**—The Lord Chancellor has appointed the following gentlemen to be Commissioners for administering oaths in the High Court of Chancery:—In England: Henry Richard Sheppard, of Wells, Somersetshire, and William Inman Welsh, of Wells, Somersetshire. In London: John Nesbitt Malletson, of No. 11, Austin-friars.

## JUDICIAL STATISTICS.

THE following returns, shewing the amount of business done in the Superior Courts of Common Law and the Courts for the Recovery of Small Debts, have been made to the Home Office:—

## COMMON-LAW COURTS.

Last year 86,270 writs of summons, and 582 writs of capias, (for arrest by leave of a judge), were issued from the three superior Courts of Queen's Bench, Common Pleas, and Exchequer; or, in other words, so many actions were commenced, a number less by 16·5 per cent. than in the previous year. In the vast majority of instances these cases are settled; for in only 23,762, not very much more than a fourth, was there any appearance entered in the proper office on the part of the defendants. But after the defendant has taken the first step, in the shape of resistance, by entering an appearance, the process of arrangement still goes on, and the number of causes actually tried by the judges during the year was only 2113—1131 in London and Westminster, and 982 at the assizes; and of these it is probable that ten or fifteen per cent. were undefended, and resisted only to gain time. So that, of the suits commenced in the superior courts, little more than two per cent. really require the decision of a jury; the vast majority are only to enforce payment of an acknowledged claim. The number of causes tried for obtaining compensation, under Lord Campbell's Act, for personal injuries, is stated at only 19; 105 were for libel or slander; 22 for breach of promise of marriage, and 16 for a more disreputable misfortune of women. In 1445 cases (above two-thirds of the number tried) there was a verdict for the plaintiff, without including verdicts subject to a special case for the opinion of the Court or a reference; in 343 cases the verdict was for the defendant, and in 80 the plaintiff was nonsuited. In twenty-eight instances the jury had to be discharged without giving a verdict. The total amount for which verdicts were obtained was 324,388*l.*, and rather more than half of it is stated to have been recovered on circuit. Of the writs of execution issued during the year for obtaining payment, 8142 were against the person, and 14,052 against the goods, the former constituting surely a very large proportion. The work done by the judges at chambers was very considerable—41,315 summonses were issued, and 10,846 of the orders made are described as "special orders;" 28,300 affidavits were sworn, or affirmations made; the office copies required of affidavits or documents filed at chambers extended to 10,667 folios. The fees levied by the Masters of the three courts amounted to 58,002*l.*, out of which was paid 38,057*l.* for salaries, &c., leaving a balance of 20,845*l.* The Suits Fund of the common-law courts amounted at the close of the year to 37,023*l.*

## SMALL DEBTS COURTS.

The large number of 714,562 complaints was entered, more than eight times the number of actions in the three superior courts, from which, also, 61 cases were sent for trial before these lower tribunals. On the complaints which went on to trial, judgment was given for the plaintiff in nearly 96 cases in 100. Although the suits were for sums averaging rather less than 50*s.* each, their enormous number raised the total amount to 1,754,971*l.* In only 17,950 cases was there judgment for the defendant or a nonsuit. The judgments for the plaintiffs awarded them sums amounting altogether to 851,738*l.*, and the costs (exclusive of fees) were 37,628*l.*; the total amount of fees on all proceedings in these courts was 215,823*l.* In the superior courts the writs of execution issued against the person were more than

half as many as the number issued against the goods, but in the county courts they were not a third. 9003 debtors were imprisoned; the sales made under execution against the goods were only 3776. There were proceedings, also, in the Sheriff's Court, London, and in courts at Manchester, in 14,560 cases, in which the sums claimed amounted to 95,600*l.*; the sums for which judgments were obtained to 32,194*l.*; the costs, 4508*l.*; the fees of the courts, 6369*l.* Several borough, hundred, and manorial courts also still linger in various parts of the country, but the returns respecting them are imperfect.

The Queen has been pleased to appoint Archibald Paul Burt, Esq., to be Civil Commissioner and Chairman of Quarter Sessions for the colony of Western Australia; and Francis Spencer Wigley, Esq., to be Attorney-General for the island of St. Christopher.

COMMISSIONERS TO ADMINISTER OATHS IN COMMON LAW.—The following gentlemen have been appointed London Commissioners for administering oaths in courts of common law:—*Queen's Bench*: Thomas Harrison the younger, of No. 5, Walbrook, in the city of London; John Hovell Triston, of No. 23, Fortess-terrace, Kentish Town; and George Brown, of No. 31, Paddington-green.—*Common Pleas*: Thomas Harrison the younger, of No. 5, Walbrook, in the city of London; and John Hovell Triston, of No. 23, Fortess-terrace, Kentish Town.

Sheffield, Yorkshire, grocer, July 28 at 10, Sheffield, and ac.—*Benjamin Pearson and William Pearson*, Stratford-upon-Avon, Warwickshire, coal dealers, Aug. 8 at 11, Birmingham, div.—*William Harris*, Manchester, merchant, Aug. 7 at 12, Manchester, div.

## CERTIFICATES.

*To be allowed, unless Cause be shown to the contrary on or before the Day of Meeting.*

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C C

## GAZETTES.—FRIDAY, July 23.

## BANKRUPTS.

ROBERT KEMP PHILLIPS, Great New-street, Fetter-lane, City, publisher, Aug. 2 at 1, and Aug. 30 at 12, London: Off. Ass. Johnson; Sols. Ashurst & Co., Old Jewry.—Pet. f. July 19.

JOSEPH RAVEN, Fish-street-hill, City, wholesale stationer, (now a prisoner for debt in the County Gaol of Surrey), July 30 at 12, and Aug. 27 at 1, London: Off. Ass. Pen-mell; Sol. Keene, 77, Lower Thames-street, London.—Pet. f. July 6.

GEORGE DIXON and JAMES CHARLES ADCOCK, (by the name of Charles James Adcock), Aldersgate-street, London, and Coventry, Warwickshire, coach lace manufacturers, July 30 at half-past 2, and Sept. 4 at 2, London: Off. Ass. Edwards; Sol. Mardon, Christchurch-chambers, 99, Newgate-street, London.—Pet. f. July 11.

EDWARD RUSSELL, Long-lane, Bermondsey, Surrey, leather merchant, July 31 at half-past 11, and Sept. 4 at half-past 2, London: Off. Ass. Edwards; Sols. Lawrance & Co., 14, Old Jewry-chambers, London.—Pet. f. July 19.

JOHN WALKER and JAMES NEAVE, Southwark-bridge-road, Surrey, builders, July 31 at half-past 2, and Sept. 4 at 1, London: Off. Ass. Edwards; Sol. Crowdy, 17, Sergeants'-inn, Fleet-street, London.—Pet. f. July 17.

JOHN GREEN, Philpot-lane, City, commission agent, July 30 at 1, and Sept. 4 at 12, London: Off. Ass. Lee; Sols. Miller & Horn, 9, George-yard, Lombard-street, London.—Pet. f. July 18.

MANUEL LEOPOLD JONAS LAVATER, Strand, Middlesex, India rubber manufacturer, July 31 and Sept. 4 at half-past 12, London: Off. Ass. Lee; Sol. Preston, 11, Austin-frars, London.—Pet. f. July 18.

ALFRED FRANCIS WHITBURN, Enfield, Middlesex, brewer, July 30 at 2, and Sept. 4 at half-past 1, London: Off. Ass. Lee; Sol. Hewitt, 4, Princes-street, London.—Pet. f. July 18.

WILLIAM HUGHES, Leicester, grocer, Aug. 2 and 23 at half-past 11, Nottingham: Off. Ass. Harris; Sol. Haxby, Leicester.—Pet. d. July 17.

HENRY DUNINGTON, Nottingham, glove cloth manufacturer, Aug. 2 and 23 at half-past 11, Nottingham: Off. Ass. Harris; Sols. Wadsworth & Watson, Nottingham; Rolt, Skinner's-lane, Size-lane, London.—Pet. d. July 11.

WILLIAM SWORD, Dewsbury, Yorkshire, draper, Aug. 3 and Sept. 3 at 11, Leeds: Off. Ass. Young; Sols. Walker, Dewsbury; Cariss & Cudworth, Leeds.—Pet. d. and f. July 17.

WILLIAM APPLEYARD, Kingston-upon-Hull, plumber, Aug. 1 and 29 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sols. Bell, or Read, Kingston-upon-Hull.—Pet. d. July 18.

JOHN MUIR, Kingston-upon-Hull, draper, Aug. 1 and 29 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sol. Eaton, Kingston-upon-Hull.—Pet. d. July 12.

JOSEPH JUKES, Eyton Lodge, near Ruabon, Denbighshire, ironmaster, Aug. 10 at 30 at 12, Liverpool: Off. Ass. Turner; Sols. Evans & Co., Liverpool.—Pet. f. July 14.

THOMAS YOUNG, Liverpool, coffee dealer, July 30 and Aug. 22 at 11, Liverpool: Off. Ass. Morgan; Sols. Miller & Peel, Liverpool; Wright & Bonner, 15, London-street, Fenchurch-street, London.—Pet. f. July 16.

## MEETINGS.

Henry Harvey, Hatton-garden, Holborn, Middlesex, lamp manufacturer, Aug. 2 at 11, London, aud. ac.—Paul Sampson, Hythe, Kent, boot maker, Aug. 2 at 12, London, aud. ac.; Aug. 10 at half-past 11, div.—Louis Cook, Great Cambridge-street, Hackney-road, Middlesex, boot manufacturer, Aug. 2 at 12, London, aud. ac.—William Shervington Walker, Liverpool, shipbroker, July 30 at 12, Liverpool, aud. ac.—John Hampson, Wrexham, Denbighshire, grocer, July 30 at 12, Liverpool, aud. ac.—John Kiddell Dawson, Liverpool, wine merchant, July 30 at 12, Liverpool, aud. ac.—Walter Phillips Gunnyon, Liverpool, clothier, July 30 at 12, Liverpool, aud. ac.—Thomas Mills, Ashton-under-Lyne, Lancashire, chemist, July 31 at 12, Manchester, aud. ac.—Joseph Wall and Joseph Buxton, Manchester, wholesale grocers, Aug. 1 at 12, Manchester, aud. ac.—Henry James Wilson,

Whitchurch, Shropshire, surgeon, Aug. 6 at 11, Birmingham, aud. ac.—Sophia Anna Aulien, Nottingham, smallware dealer, Aug. 2 at 11, Nottingham, aud. ac.

## CERTIFICATES.

To be allowed, unless *Chorus* be shown to the contrary on or before the Day of Meeting.

Michael Perry, Bloomsbury-market, Oxford-street, Middlesex, passe partouts manufacturer, Aug. 10 at 1, London.—Henry Treuter, Ipswich, Suffolk, butcher, Aug. 10 at 11, London.—Paul Sampson, Hythe, Kent, boot maker, Aug. 10 at half-past 11, London.—Edmund Jones, Woodbine-villas, Bridge-road West, Battersea, Surrey, hosier, Aug. 10 at 1, London.—Charles Roach, Devizes, Wiltshire, hosier, Aug. 14 at 11, Bristol.—Alexander Waite, Berwick-upon-Tweed, draper, Aug. 15 at half-past 11, Newcastle-upon-Tyne.—J. Pooley, Liverpool, and Peterborough, Northamptonshire, contractor, Aug. 10 at 11, Liverpool.—Ephraim France and Henry France, Linthwaite, Almondsbury, Yorkshire, woollen manufacturers, Aug. 13 at 11, Leeds.—Robert Brown, Great Driffield, Yorkshire, brewer, Aug. 15 at 12, Kingston-upon-Hull.—George Tomlinson France, Huddersfield, Yorkshire, cloth merchant, Aug. 27 at 11, Leeds.

To be granted, unless an Appeal be duly entered.

James Smith Spencer, Great Russell-street, Bloomsbury, Middlesex, wine merchant.—John Parnell, Oxford-street, Middlesex, linendraper.—John Samuel Beale, Paddington-green, Paddington, Middlesex, surgeon.—Frederick Miller, Poland-street, Oxford-street, Middlesex, glass merchant.

## SCOTCH SEQUESTRATIONS.

James Keir, Blaikie Mill, near Brechin, miller.—Henry Dobson Craft, Portobello, Edinburgh, grocer.

## TUESDAY, July 24.

## BANKRUPTS.

WILLIAM COOK, King-street, Regent-street, Middlesex, coachbuilder, (trading under the style and firm of Cook, Rowley, & Co.), Aug. 3 at 12, and Aug. 30 at 11, London: Off. Ass. Cannan; Sol. Sowton, 6, Great James-street, Bedford-row.—Pet. f. July 23.

WILLIAM GOODALL GIBSON, Godalming, Surrey, tanner, Aug. 6 and Sept. 7 at 11, London: Off. Ass. Cannan; Sols. J. & J. H. Linklater & Co., 7, Walbrook.—Pet. f. July 24.

DAVID HUNTER, Cornhill, City, merchant, Aug. 3 at 11, and Sept. 11 at 12, London: Off. Ass. Lee; Sol. Hindley, 10, Old Jewry, London.—Pet. f. July 21.

JOHN FREDERIC EYLES, Brighton, Sussex, printer, Aug. 7 at 11, and Sept. 4 at half-past 2, London: Off. Ass. Lee; Sols. Lawrance & Co., 14, Old Jewry-chambers, London.—Pet. f. July 20.

JESSE ATTWOOD, Newington, near Sittingbourne, Kent, licensed victualler, Aug. 6 at 11, and Sept. 11 at 2, London: Off. Ass. Edwards; Sols. Young & Plews, 29, Mark-lane, London.—Pet. f. July 18.

THOMAS LAURENCE and WILLIAM MORTIMORE, St. Mary-axe, City, leather factors, (carrying on business under the style or firm of Streatham, Laurence, & Mortimore; and at Liverpool, with Francis Benjamin Schrader, under the style or firm of Laurence, Mortimore, & Co.), Aug. 4 and Sept. 18 at 11, London: Off. Ass. Lee; Sols. Murray & Hutchins, 11, Birchin-lane, London.—Pet. f. July 21.

WILLIAM JONES, Aldershot, Hampshire, tailor, Aug. 7 at half-past 11, and Sept. 11 at 1, London: Off. Ass. Edwards; Sols. Murless, 3, Great James-street, Bedford-row, London; Hurford & Taylor, 5, Furnival's-inn, Holborn, London.—Pet. f. June 26.

MICHAEL HENRY ROBINSON, Wolverhampton, Staffordshire, tailor, Aug. 3 and 24 at 11, Birmingham: Off. Ass. Whitmore; Sols. James & Knight, Birmingham; Robinson & Neve, Wolverhampton.—Pet. f. July 21.

JOHN HUGHES, Birmingham, wire drawer, Aug. 4 and Sept. 1 at 11, Birmingham: Off. Ass. Kinnear; Sol. Suckling, Birmingham.—Pet. f. July 20.

JOHN MARTIN, Nottingham, clothier, Aug. 9 and 30 at half-past 11, Nottingham: Off. Ass. Harris; Sols. Cowley & Everall, Nottingham.—Pet. d. July 20.

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## THE JURIST.

LONDON, JULY 28, 1860.

THE bill before Parliament to effect a still further change in the constitution of the Court for Marriage and Divorce, by enabling the Judge Ordinary to act without the aid of other judges, invites attention to the character and proceedings of that tribunal; while the second edition of Mr. Macqueen's "Treatise on the Law of Marriage, Divorce, and Legitimacy, as administered in the Divorce Court and in the House of Lords," which has just appeared, furnishes some valuable materials to assist the judgment. It is not, however, our intention at present to go into the whole question of the advantages or disadvantages of the Divorce Court, which must now be looked on as one of the institutions of the land; we shall confine ourselves to what has been found in every age, and we venture to say ever will be found, the characteristic enemy of justice in all tribunals empowered to grant divorces à vinculo matrimonii—COLLUSION between the parties. With this view, we propose, first, to shew the nature and magnitude of the evil; and, secondly, to direct attention to the, to our mind, feeble and utterly insufficient guards which the Legislature has set up against it.

The matter is simply this:—A., who is married to B., is desirous of getting rid of the matrimonial tie, in order to contract a fresh marriage with C.; while B. is equally desirous to dissolve the bond, either in order to enable her to contract some other marriage, or for some other reason. In order to effect this object, it is sufficient if A. can induce the Divorce Court to believe

that B. has committed adultery; or, if the suit is instituted by the wife against the husband, that he has committed adultery, accompanied either by incest, or cruelty to, or desertion of her. Both parties being agreed to assist each other in bringing about this illegal and immoral end, there are evidently two ways of accomplishing it—first, by putting forward false facts to form the basis of the judgment of the Court; secondly, by putting forward for the same purpose facts which are true, but have been corruptly and fraudulently preconcerted. (Macq. 67).

Nor is the danger from these sources at all a chimerical one. Even under the old system, when divorces à vinculo were necessarily much less frequent than at present, Lord Eldon, in 1800, said he was certain that nine out of every ten cases of adultery that came into the courts, or before the bar of the House of Lords, at that period, were founded on the most infamous collusion; and similar complaints were made in the year 1772 in the House of Commons: (See Mr. Roche's paper, "Some Points in the Law of Divorce," read before the Juridical Society). The prevalence of collusion under the new system is notorious enough, and some instructive instances of it are given by Mr. Macqueen:—"In *Lloyd v. Lloyd* and *Chichester* the petitioner changed his attorney; the first attorney had his costs taxed before the registrar; during the taxation he and the new attorney quarrelled. They made mutual charges against each other, of which the registrar wisely made a memorandum, and told them he should bring the matter to the notice of the judge. In consequence of this communication, the Court, at the trial, summoned the witnesses; the truth, shewing the grossest

collusion, was elicited, and the petition was dismissed. That case was undefended. It was presented to the Court as an ordinary application for divorce. The marriage was proved, and the wife's adultery was proved. Then the Court was asked to pronounce its decree dissolving the marital tie; and had it not been for the scene before the registrar, it would have done so as matter of course." (Macq., p. ix.). At p. 70, also, he gives at length a very bad case indeed, in Scotland, in 1854, where a collusive suit was prosecuted successfully. And the presence of collusion in a large number of the divorce cases which daily present themselves in England is indicated by a fact thus stated by the same author, (pp. iii, iv):—"Since its institution, the principal occupation of the Divorce Court has been dissolutions of marriage and judicial separations. The method of proceeding for both is the same. But it is remarkable that trials for dissolution have hitherto been more expeditious than trials for judicial separation. When the Court sits to hear applications for dissolution of the matrimonial tie, so as to enable the parties to marry again, nine or ten cases are usually put in the paper for disposal; and seven or eight, or more, are generally got through in a day. When, again, the Court sits to hear applications for judicial separation, a single trial is often found enough, and more than enough, for the day. Two, three, and four days have been repeatedly spent on one case. A contest of this description, memorable though ridiculous, occupied for eight days the Court and a jury, besides having afterwards been made the subject of repeated applications productive of no result." We confess, however, we do not see anything remarkable in this; a separation suit is almost necessarily a real contest, while a suit for divorce à vinculo is too frequently a sham one.

Such being the evil, we now proceed to consider the safeguards provided against it, both under the old law, and the modern system introduced by the Divorce Acts. In proceedings for divorce à mensa et thoro, the Ecclesiastical Courts of this country acted on two rules of evidence, which seem deserving of notice:—1. That adultery could not be proved by the testimony of only one witness—a rule which was, however, only a branch of the general rule of civil and canon laws, requiring two witnesses in all cases. 2. By the canons of 1597, c. 6, and 1604, c. 105, no suit for adultery could be maintained on the unsupported confession of the party accused, even though on oath. The words of the latter are, "Nec soli extrajudiciali aut judiciali et juratæ partium confessioni fides habeatur." (See *Mortimer v. Mortimer*, 2 Hagg. 310). And it is to be remembered, that a judicial confession can be made by allowing judgment to go by default, as well as by a more formal avowal of guilt. Both these securities are now at an end. The 48th section of the first Divorce Act, 20 & 21 Vict. c. 85, enacts—"The rules of evidence observed in the superior courts of common law at Westminster shall be applicable to, and observable in, the trials of all questions of fact in the court"—an enactment which has been construed to mean that the rule of the common law is, that the testimony of one witness, if credible, shall be sufficient in cases of adultery; and in *Robinson v. Robinson* (1 Swab. & T. 632; 5 Jur., N. S., part 1, p. 392) it was held by the Divorce Court, in a

case, however, where the decision could stand without any such dogma, that a divorce à vinculo matrimonii may be granted on a clear and unequivocal confession, without any other proof.

Modern legislation and judicial decision having thus swept away the old securities, the following are the new ones provided by the Legislature:—1. By the 20 & 21 Vict. c. 85, s. 41, "Every person seeking a decree of nullity of marriage, &c. shall, together with the petition or other application for the same, file an affidavit verifying the same, &c., and stating that there is not any collusion or connivance between the deponent and the other party to the marriage." As if a person, who is capable of deceiving a court of justice into a collusive dissolution of a marriage, would scruple to take a false oath to effect his purpose. 2. By sect. 28 of the same statute—"Upon any such petition for dissolution of a marriage, it shall be the duty of the Court to satisfy itself, so far as it reasonably can, not only as to the facts alleged, but also whether or no the petitioner has been in any manner accessory to, or conniving at, the adultery." It will be observed, that the Legislature do not say that the Court is "to be satisfied of the absence of collusion beyond all reasonable doubt," but that it shall satisfy itself of its absence "so far as it reasonably can," which is a very different thing. And by sect. 43, the Court may, if it shall think fit, examine the petitioner on oath. But, as Mr. Macqueen observes, (p. xiv), "A judge, having no clue, examines under great disadvantage; many of his questions are wide of the mark, which is kept out of sight. This provokes a smile from those who are in the secret." 3. There is the protection of trial by jury, "if the parties, or either of them, insist upon it," (sect. 28), "or the Court itself thinks proper so to direct," (sect. 36); otherwise the matter will be determined by the Court. It is plain the Legislature did not think this much of a security against collusion, or they doubtless would have rendered it obligatory in all cases. 4. Petitions for divorce à vinculo matrimonii must be heard and determined by three judges at the least. (Sect. 10). The bill before Parliament proposes to take away the protection, whatever it may be, afforded by this clause, and to empower the Judge Ordinary to decide such causes alone.

In addition to these preventives of collusion supplied by the Legislature, numerous others have been recommended for consideration, of which the following are the chief:—First, prohibition of marriage between the convicted party and the accomplice in guilt, as is the case in the Scotch law; secondly, the intervention of the Attorney-General, or some other public officer, to see that the status and condition of the parties are clearly established, and to look to the interests of their children—a course adopted in France, the United States of America, and some other countries; thirdly, the not allowing proceedings towards divorce as matter of right, but compelling the party who complains to obtain authorisation to commence them from a judge, whose duty it should be to endeavour to reconcile the parties—a course also adopted in France; fourthly, the interposition of considerable delay before final judgment, in order to give the parties time for reflection and a locus penitentiae, the idea of which is also taken from the Code Napoléon.

The Divorce Acts seem based on the principle—to our mind a most vicious one—that adultery, and those other species of misconduct which constitute ground of divorce, are injuries to the party who claims the intervention of the Court, and to that party alone—that so long as the divorce is not collusive, and provision is made for the custody of the children, and care taken of their property, the relations and friends of the parties, and society in general, have nothing to do with the matter. In support of this view it is constantly asserted that marriage is a civil contract, and *nothing more*. Civil contract it undoubtedly is, but it does not follow from thence that it can be dissolved by the parties at pleasure; for it is one, the indissolubility of which, except in certain aggravated cases, is upheld and encouraged by the policy of the law as essential to the peace, good order, and happiness of society, and, in the vast majority of instances, the welfare and happiness of the parties themselves. In this the law of England is in accordance not only with the religion of the land, and of all Christendom, but with *natural law*, of which Puffendorf (Jus. Nat. & Gen., lib. 6, c. 1, s. 2) truly, we believe, states marriage to be an institution, and calls it “*generis humani seminarium*.” If this be so, any conduct which renders a party rightly amenable to the Divorce Court seems an offence against society, and should be treated as such. In other words, it may be a question whether that tribunal ought not to possess a criminal as well as a civil jurisdiction—a civil jurisdiction to dissolve the marriage on proof of the matters specified by law, and a criminal one to punish the party whose misconduct rendered necessary so strong an act. Persons who, obeying their depraved passions, would willingly, in order to free themselves from the matrimonial tie, commit a real, or confess a fictitious, adultery, would pause ere they committed or avowed an act which the law pronounced to be a crime, and visited with a severe and infamous punishment. Adultery has been punished criminally in some countries, and in our own during the Commonwealth; but the punishment attached to it being capital, those laws, like others of undue severity, fell into disrepute, and disappeared. The ecclesiastical law looks on adultery as a crime, as also did the common law—witness its action for criminal conversation—and the circumstance of the common law not having made provision for its punishment is explained by the fact that jurisdiction over the offence was usurped by the ecclesiastics.

The Legislature has now condemned the principle of our ancient law, which pronounced marriage indissoluble under any circumstances; and has also put an end to the anomalous state of things which succeeded it, when the law held the marriage tie indissoluble, and yet systematically permitted its dissolution by a cumbrous, unsafe, and highly expensive process, partly judicial, partly legislative. But the Legislature having declared that for certain specified acts of misconduct a marriage may be broken *ex debito justitiæ*, society has a right to demand of the Legislature that *effective* guarantees be afforded against collusive divorces; and it is impossible not to see that those existing at present are most miserably weak and ineffective.

That its decrees are “*fabulæ, non judicia*,” is a reproach to a judicial tribunal at any time; but that its machinery is systematically prostituted to the carrying out unlawful ends is the severest imputation, short of positive corruption, that can be cast upon it. Crimes in general are committed in defiance of the law, but when they are perpetrated through the instrumentality of the law itself, the immediate consequence is to shake confidence in the administration of justice, and the final consequence, to demoralise society.

## Correspondence.

### LIBRARIES IN THE EQUITY COURTS.

TO THE EDITOR OF “THE JURIST.”

SIR,—The popular idea of a court of equity is, that it sits, (as Selden has it), “a roguish thing,” the Chancellor, like an Eastern Cadi, doing of his own mere motion what he thinks meet and just. Nor is it only among the vulgar that the notion is entertained. Dr. Samuel Johnson means something very like it when he says—“The Chancellor hath power to moderate and temper the written law, and subjecteth himself only to the law of nature and reason.”

Unhappily, Sir, as you are aware, equity is as much a creature of “precedent” as law, and principles established by successive decisions have in both the force of positive enactment. It is, therefore, necessary for counsel, on the argument of each cause, to have in his hands a copy of each report containing or leading to the principle he is contending for. A dozen volumes, picked from the publications of three centuries, are no uncommon companions of counsel on his leaving chambers to go into court.

Here arises my grievance. One may any day lose a cause for want of a particular volume of Reports. Some months ago there appeared in *The Times* a complaint of some gentleman in practice as to the cost, and tardiness in appearing, of these same “authorised” Reports. He bought them all, and contented himself with grumbling. He was undoubtedly in good business. My business is very small, but I am not less bound than my more fortunate brother to cite my cases from Reports. The result is, that men situated like myself borrow, or, *proh pudor!* “get” the Reports (the big black owner’s name across the outside of the books one sees in court is terribly suggestive) at a sad expenditure of time—and reputation.

In the common-law courts there is a good library, I understand, in every court. Let us hope the “amalgamation” scheme will bring this idea eastwards with it. We shall then be able to work up our cases in the libraries of the various Inns—take merely our notes with us into court, and find our materials for argument upon the spot.

That the consummation of so desirable a scheme may be speedy, prays your obedient,  
Chancery-lane.

J. C.

### Rebibo.

*A Treatise on the Law of Marriage, and other Family Settlements. With Precedents and Practical Notes. By JAMES PEARSE PEACHEY, Esq., of the Inner Temple, Barrister-at-Law. Royal 8vo., pp. 1041. [Swed.]*

A WRITER who is fastidious, and succeeds in being correct, in his language, is likely to be careful and exact in dealing with his subject; and if his style is not only accurate, but easy and forcible, we may expect to find in the substance of his work also traces of a master’s hand. The pleasure, therefore, with which we read the first chapter of Mr. Peachey’s well-written book soon became associated with confidence in the author’s powers, and prepared us for the conclusion, to which a careful examination has conducted us, that this must be placed in the first rank among modern legal treatises, supplying a want which has long been felt. With the exception of Mr. Atherley’s very mediocre and now wholly obsolete treatise, and the late Mr. Jarman’s able but incomplete sketch in the ninth volume of his work on Conveyancing, there is no professed treatise on the subject of marriage and family settlements; and though detached portions of the subject, such as the learning relating to powers, to portions,

and to the rights of husband and wife in respect of property, have been separately treated by Lord St. Leonards, Matthews, Roper, and others, there are very many important matters the authorities upon which are nowhere collected or discussed except in the volume before us.

The following is a brief outline of the contents of the work:—

Ch. 1. Origin of settlements of real estate. Ch. 2. As to restrictions upon the general capacity to make settlements, and the validity of settlements of real and personal estate when made by infants. Ch. 3. Marriage agreements, and how far they are affected by the stat. 29 Car. 2, c. 3, and by fraud and misrepresentation generally. Ch. 4. Settlements pursuant to marriage articles and executory trusts in wills. Ch. 5. Settlements in derogation of marital rights. Ch. 6. Equity of the wife to a settlement. Ch. 7. Settlements as affected by the 13 Eliz. c. 5, and by the Bankrupt Laws. Ch. 8. Settlements as affected by the 27 Eliz. c. 4; and the validity of voluntary settlements generally. Ch. 9. Settling property to the wife's separate use. Ch. 10. Pin-money. Ch. 11. Limitations in settlements to tenants for life without impeachment of waste. Ch. 12. Jointure. Ch. 13. Powers to jointure. Ch. 14. Portions. Ch. 15. Double portions. Ch. 16. Covenants to settle after-acquired property. Ch. 17. Covenants to settle particular lands; to settle lands of a defined value; to lay out money in the purchase of lands; to give or assure to a child about to marry an equal share or portion. Ch. 18. Reformation and rectification of settlements. Ch. 19. Family arrangements and resettlements. Ch. 20. Deeds of separation.

The practical value of the treatise is greatly increased by the addition of well-drawn precedents (twenty-four in number) of settlements and deeds of separation, illustrated by judicious notes; and at the end are printed the Settled Estates Acts, and the enactments relating to stamp duties on settlements, with notice of all the decisions.

We extract a portion of the chapter on pin-money as an illustration of the writer's success in relieving the driest subject by his mode of treatment—in the present instance, however, with the advantage of following Lord Brougham:—

"Generally speaking, in a modern settlement of a large family estate executed upon a marriage, the first limitation—always supposing the property intended to be settled belongs to the husband—is unto trustees, to the use of the husband, his heirs and assigns, until the marriage, and thenceforth to the use of trustees for a long term of years, upon trust to pay an annuity to the wife for her separate use. The annuity thus proposed to be raised is what is popularly called the wife's 'pin-money,' and is a sum of money set apart for a specific purpose, due to the wife in virtue of a particular arrangement, payable by the husband by force of that arrangement, and for that specific purpose. It is, with respect to the personal expenses of the wife, for the dress and pocket-money of the wife; indeed, its very name indicates a connexion with the person. It means that which is employed to deck or attire the person of the wife, and, upon a somewhat larger construction, to pay her ordinary personal expenses. A person in a humble station of life pays his wife's bills as he pays his own. A person in a station rather higher is accustomed to make, for common convenience, an allowance to his wife of so much for housekeeping expenses, if she be *præposita rebus domesticis*, and so much over for her own dress and the dress of her children. A person in a still higher station makes a general arrangement, which probably extends over years, if not over the whole coverture; and a person in a still more elevated station makes the arrangement of pin-money by the marriage settlement, which is, as it were, saying,

'You' (the wife) 'shall not be reduced to the somewhat humiliating necessity of disclosing to me every want of a pound to keep in your pocket, or of taking my pleasure and obtaining my consent every time you want to go to the milliner's shop to order your dress; but you shall have so much, consistent with my estate and my income, which you shall retain apart from me, and exempt from my control.' Pin-money, in short, is a refinement which the law has introduced, peculiar to the bargain or arrangement previous to and upon the marriage, and the husband, exempting it from his control, may be supposed to say, 'There shall be your dress-money, your pocket-money, your fund for separate personal expenses set apart for you during the coverture.'

"The exact period when pin-money was first introduced in England is unknown. Lord Brougham inclines to ascribe its first introduction to a time when the wives of the great nobles of England had ladies in waiting, the wives and daughters of barons and esquires attending upon them, just as the Queen Consorts of the immediate predecessors of our own Sovereign Lady had in the early part of the present century; in fact, that pin-money was invented in the days when the wives of the great nobles of England were rather princesses than subjects. Lord St. Leonards, however, entertains a doubt whether pin-money can claim so remote an origin; and a learned and ingenious friend of his Lordship, in a note addressed to the noble author of the Treatise on the Law of Property as administered by the House of Lords, considers that pin-money came to England about the period of the Restoration, and quotes, as one of his authorities for that opinion, a paper in *The Spectator*, by Addison, who, in his character of "spectator," is called by one of his correspondents to give his opinion whether there was any precedent for the usage of pin-money among our ancestors, or whether any mention of pin-money was to be found in Grotius, Puffendorf, or any other of the civilians. But Addison, who, as Lord St. Leonards' correspondent remarks, had, from that acquaintance with the Benchers of Lincoln's Inn of which *The Spectator* is made to boast, very ready means of answering the inquiry to the full extent, is unable to say more than that the doctrine of pin-money is of very late date; that it was unknown to our great grandmothers, and had not yet been received by many of our modern ladies; adding, moreover, that it would be greatly for the interest of both sexes to keep it from spreading.

"Very little of authority is to be gleaned out of the books upon the subject of pin-money, notwithstanding its now occurring (and without producing the ill effects hinted at by Addison) almost every time that a marriage takes place among persons of large fortune. You cannot, indeed, it is observed by Lord Brougham, get from the books even a definition upon which you can rely; you cannot trace the line which divides it from the separate property of the wife with any distinctness; and as to authority, either of decision or dicta, of text-writers or of judges, there is nothing that furnishes a clear and steady light on the subject; the cases running from pin-money into separate estate, and from separate estate into pin-money, in such a way, that when a text-writer, and one of repute too, quotes a case—*Brady v. Barry*, for instance—in support of a doctrine touching pin-money, you look at the book, and find it has nothing to do with pin-money, and does not support the proposition for which it is cited."

#### THE CHANCERY EVIDENCE RESOLUTIONS.

We have much pleasure in informing our readers that the Lord Chancellor has "taken action" on the resolutions reported by the Evidence Commissioners,

which appeared in substance in our last impression\*. The two gentlemen of the Chancery Bar to whose assiduous and successful labours last year the Profession owes the consolidation of the General Orders—Mr. Josiah W. Smith and Mr. H. Cadman Jones—have been commissioned to frame Orders to give effect to the Report. When the extent of the proposed changes is borne in mind, it is evident that a comprehensive and exact knowledge of the existing Orders, in their consolidated shape, will be necessary for the safe accomplishment of the task. Thus, examinations before the examiners are to be treated as mere affidavits *ex parte*. Any party is to be at liberty, on notice, to adduce evidence of contested facts, *viva voce*, in court. Also, a deponent by affidavit, in uncontested facts or otherwise, will be open, on notice, to cross-examination in court by the opposite side. At first sight, the power to embody such changes in Rules at all, so as to supersede the provisions of the 15 & 16 Vict., might appear questionable; nevertheless, the clause enabling the judges has been considered sufficient for the purpose. The 63rd section provides that Rules and Orders may be made for carrying the purposes of the act into effect, and for regulating the time and form and mode of procedure, and generally the practice of the Court, in respect of the matters to which the act relates, and, so far as may be found expedient, for altering the course of proceeding thereinbefore prescribed in respect to the matters to which the act relates, or any of them. The new Orders, therefore, will not require any parliamentary sanction; and, whether completed before or after the end of the session, will be promulgated in the usual manner, to take effect, perhaps, at the beginning of next term.—*Law Times*.

\* These are given at length in the last two numbers of THE JURIST, (ante, pp. 265, 273).

**THE BANKRUPTCY BILL.**—The Bankruptcy Bill introduced by the Government into the House of Commons has been withdrawn for the present session. Its failure was occasioned by those clauses which sought to abolish the distinction between traders and non-traders—a project the carrying out of which involves more difficulties, and appears open to more objections, than were anticipated.

Died, on the 25th instant, at Berkeley Villa, Putney, Emma, wife of George James Kain, Esq., Law Accountant.

**WILLIAM NATHANIEL EVANS and ROBERT BUNCOMBE EVANS**, Colyton, Devonshire, tanners, Aug. 8 and Sept. 18 at 11, Exeter: Off. Ass. Hirtzel; Sols. Moore, and Head & Venn, Exeter; Paine & Layton, Gresham House, Old Broad-street, London.—Pet. f. July 13.

**ARTHUR JACKSON and RICHARD MICHELL EASTMAN**, Liverpool, brokers, Aug. 6 and 30 at 11, Liverpool: Off. Ass. Bird; Sols. Anderson & Collins, Liverpool.—Pet. f. July 23.

**WILLIAM PALIN and JOHN CRAVEN PALIN**, Chester, maltsters, Aug. 3 and 29 at 11, Liverpool: Off. Ass. Morgan; Sols. Forsham & Goodman, Liverpool.—Pet. f. July 23.

**ANN AMELIA LEEVERS**, Liverpool, hosier, Aug. 6 and 30 at 11, Liverpool: Off. Ass. Bird; Sols. Evans & Co., Liverpool.—Pet. f. July 20.

**ANTHONY CUMMING** the younger, Liverpool, merchant, Aug. 3 and 29 at 11, Liverpool: Off. Ass. Casanova; Sols. Keightley & Banning, Liverpool.—Pet. f. July 23.

**FREDERICK THOMAS GOODALL**, Manchester, money scrivener, Aug. 7 and 28 at 12, Manchester: Off. Ass. Fraser; Sol. Heywood, Manchester.—Pet. f. July 13.

#### MEETINGS.

*Jonathan Hills and Robert Hills*, Gravesend and Dartford, Kent, bankers, Aug. 3 at 11, London, pr. d.—*George Lake*, Stockport, Cheshire, hat manufacturer, Aug. 10 at 12, Manchester, ch. ass.—*William Herring*, Liverpool, confec-

tioner, Aug. 6 at 12, Liverpool, aud. ac.—*William Moncrieff Bell*, Liverpool, draper, Aug. 6 at 12, Liverpool, aud. ac.—*Thomas Chard*, Bristol, flour agent, Sept. 20 at 11, Bristol, aud. ac.—*William Smith*, South Shields, Durham, ship owner, Aug. 7 at half-past 11, Newcastle-upon-Tyne, aud. ac.—*Samuel Cottam*, West Bromwich, Staffordshire, innkeeper, Aug. 3 at 11, Birmingham, aud. ac.—*George Jervis*, Thomas Leese, and *William Henry Bradbury*, Longton, Staffordshire, china manufacturers, Aug. 2 at 11, Birmingham, aud. ac.—*William Bogle*, Birmingham, hop merchant, Aug. 2 at 11, Birmingham, aud. ac.—*Charles Wilkes*, Bloxwich and Tipton, Staffordshire, miller, Aug. 3 at 11, Birmingham, aud. ac.—*James Kelsey and Edmund Kelsey*, Nuneaton, Warwickshire, tailors, Aug. 2 at 11, Birmingham, aud. ac.—*Charles Marson* the elder, Leominster, Herefordshire, innkeeper, Aug. 3 at 11, Birmingham, aud. ac.—*Thos. Sturley*, Harbury, near Southam, Warwickshire, licensed victualler, Aug. 3 at 11, Nottingham, aud. ac.—*John Leggo*, Walsall, Staffordshire, iron manufacturer, Aug. 2 at 11, Birmingham, aud. ac.—*John Nevens and John Hampton Wilkinson*, Wolverhampton, Staffordshire, drapers, Aug. 3 at 11, Birmingham, aud. ac.—*Thos. Churchouse*, Briton-ferry, near Neath, Glamorganshire, grocer, Aug. 23 at 11, Bristol, fin. div.—*John Stote Date*, Cardiff, Glamorganshire, flour merchant, Aug. 16 at 11, Bristol, first and fin. div.—*Mark Bowden*, Bristol, flint-glass manufacturer, Aug. 17 at 11, Bristol, fin. div.—*John Lowe*, Cheltenham, Gloucestershire, printer, Aug. 16 at 11, Bristol, div.—*Wm. Avery*, Bristol, shipowner, Aug. 16 at 11, Bristol, fin. div.—*Wm. Forrester*, Hanley, Staffordshire, iron merchant, Aug. 24 at 11, Birmingham, div.—*Matthew Bradbury and George Weaver*, Tunstall, Staffordshire, drapers, Aug. 24 at 11, Birmingham, div.—*John W. Hamilton*, Birmingham, stockbroker, Aug. 24 at 11, Birmingham, div.

#### CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*Samuel Bothwell*, Dorking, Surrey, builder, Aug. 15 at 1, London.—*Joel Fox*, Norwich, furrier, Aug. 16 at 12, London.—*John Murley*, St. Chad's Wells, Gray's-inn-road, Middlesex, carriage builder, Aug. 15 at 12, London.—*Thomas Wm. Milner*, Queen-street, Chesham, London, and Canterbury-grove, Lower Norwood, Surrey, surveyor, Aug. 15 at half-past 11, London.—*Charles Bray*, Alfred-terrace, Queen's-road, Bayswater, Middlesex, ironmonger, Aug. 14 at 12, London.—*George Padmore* the younger, Northampton, shoe manufacturer, Aug. 14 at half-past 12, London.—*Elizabeth Aydon and Thomas Wm. Ferguson*, Newcastle-upon-Tyne, grocers, Aug. 17 at 12, Newcastle-upon-Tyne.—*J. Hughes*, Liverpool, licensed victualler, Aug. 10 at 12, Liverpool.—*George Willson*, Lincoln, watchmaker, Aug. 15 at 12, Kingston-upon-Hull.—*Edward Heseltine Old and James Pearson*, Kingston-upon-Hull, hat manufacturers, Aug. 22 at 12, Kingston-upon-Hull.

*To be granted, unless an Appeal be duly entered.*

*Francis John Fnoles*, Hatcham, Surrey, and Rood-lane, City, soap merchant.—*George Charles Noble*, Northampton, builder.—*John Allen*, Broadway, Deptford, Kent, and Eagle-street, Spitalfields, Middlesex, shoe manufacturer.—*George Booth*, Holmes-terrace, Kentish-town, Middlesex, provision merchant.—*William Seager*, Shooter's-hill-road, Greenwich, Kent, builder.—*John Ashby*, Carlisle-street, Soho-square, Middlesex, builder.—*John Underwood*, M'Lean's-buildings, New-street-square, Shoe-lane, City, wholesale stationer.—*Thomas Davis*, Chapel-street, St. George-the-Martyr, Middlesex, hotel keeper.—*David Williams Bishop and John P. Farbridge*, Cornhill, London, East India merchants.—*M. H. Cowell*, St. George's-road, Southwark, licensed brewer.—*Charles Warwick*, Friday-street, Chesham, fancy dress warehouseman.—*John Lacey*, Barnstaple, Devonshire, linen-draper.—*Epaphras Clayton*, Openshaw, near Manchester, provision dealer.—*Thomas Sturley*, Harbury, near Southam, Warwickshire, licensed victualler.—*Edward Smith*, Birmingham, printer.—*Richard Turner*, Stoke-upon-Trent, Staffordshire, cabinet maker.—*Henry Collingbourne*, Foleshill, near Coventry, Warwickshire, ribbon manufacturer.

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## GAZETTES.—FRIDAY, July 27.

## BANKRUPTS.

**SAMUEL OYLER BERMAN**, Lower Thames-street, City, wine merchant, Aug. 8 at half-past 11, and Sept. 7 at 12, London: Off. Ass. Cannan; Sol. Butler, jun., 191, Tooley-street, Southwark.—Pet. f. July 25.

**BERNARD AAL**, Lambeth-street, Goodman's-fields, White-chapel, Middlesex, tailor, Aug. 8 at 11, and Sept. 7 at half-past 11, London: Off. Ass. Cannan; Sol. Hewitt, 4, Princes-street, Bank.—Pet. f. July 24.

**JOSEPH HOOPER**, New Weston-street, Bermondsey, Surrey, leather merchant, Aug. 8 at 12, and Sept. 7 at half-past 11, London: Off. Ass. Whitmore; Sol. Abrahams, 17, Gresham-street.—Pet. f. July 26.

**CHARLES HENRY JOSEPH**, otherwise called **CHARLES HENRY JOSIFFE**, Strand, Middlesex, hotel keeper, Aug. 9 at half-past 1, and Sept. 7 at 1, London: Off. Ass. Whitmore; Sol. Stubbs, 46, Moorgate-street.—Pet. f. July 18.

**JOSEPH LAWSON**, Fenchurch-street, City, shipbroker, (now in the Queen's Prison, Surrey), Aug. 7 at 11, and Sept. 11 at half-past 12, London: Off. Ass. Edwards; Sol. Chidley, 10, Basinghall-street, London.—Pet. f. July 17.

**FRANCIS BENJAMIN SCHRADER**, Liverpool, leather factor, (carrying on business with Thomas Laurence and William Mortimore, under the style or firm of Laurence, Mortimore, & Co.), Aug. 9 at 1, and Sept. 18 at 11, London: Off. Ass. Lee; Sols. Murray & Co., 11, Birchin-lane, London.—Pet. f. July 21.

**GEORGE STEVENSON**, Keele, Staffordshire, shoe manufacturer, Aug. 6 and 29 at 11, Birmingham: Off. Ass. Kinnear; Sols. Slaney & Winstanley, Newcastle-under-Lyme; James & Knight, Birmingham.—Pet. d. July 19.

**THOMAS ELVIUS POUNTNEY**, Bromsgrove, Worcestershire, licensed victualler, Aug. 17 and Sept. 7 at 11, Birmingham: Off. Ass. Whitmore; Sols. James & Knight, Birmingham; Scott, Bromsgrove.—Pet. d. July 26.

**SAMUEL BENNETT**, Nottingham, tailor, Aug. 9 and 30 at half-past 11, Nottingham: Off. Ass. Harris; Sols. Cowley & Everall, Nottingham.—Pet. d. July 26.

**ANN AMELIA LEVERS**, Liverpool, hosier, Aug. 6 and 30 at 11, Liverpool: Off. Ass. Bird; Sols. Evans & Co., Liverpool; Reed, 3, Gresham-street, London.—Pet. f. July 20.

**WILLIAM OSBORNE**, Birkenhead, Cheshire, printer, Aug. 8 and 29 at 11, Liverpool: Off. Ass. Morgan; Sol. Rymer, Liverpool.—Pet. f. July 25.

**EDWARD HEATHCOTE**, Rock Ferry, Cheshire, grocer, Aug. 10 and 31 at 11, Liverpool: Off. Ass. Bird; Sols. Woodburn & Pemberton, Liverpool.—Pet. made July 26.

**ELIZABETH WRIGHT**, late of Higher Broughton, near Manchester, lodging-house keeper, (but now a prisoner in Lancaster Castle), Aug. 7 and 28 at 12, Manchester: Off. Ass. Pott; Sol. Smyth, Manchester.—Pet. f. July 17.

**THOMAS PALMER and SAMUEL PALMER**, Plymouth, drapers, Aug. 9 and Sept. 3 at half-past 12, Plymouth: Off. Ass. Hirtzel; Sols. Beer & Rundle, Devonport; Hartnoll, Exeter.—Pet. f. July 18.

## MEETINGS.

*William Bayley* the younger and *Richard Bowden Newson*, White-Lion-street, Pentonville, gold beaters, and *Hoxton*, Middlesex, woodcutters, Aug. 14 at half-past 12, London, aud. ac.—*Charles Bray*, Alfred-terrace, Queen's-road, Bayswater, Middlesex, ironmonger, Aug. 14 at 12, London, aud. ac.—*John Hyndman*, Newport, Monmouthshire, porter merchant, Aug. 9 at 11, Bristol, aud. ac.—*William Cox*, Weymouth, Dorsetshire, lath maker, Aug. 30 at 11, Exeter, aud. ac.—*William Mannion*, Liverpool, currier, Aug. 10 at 11, Liverpool, aud. ac.—*Isaac Thomas Perrins*, Dudley, Worcestershire, iron merchant, Aug. 6 at 11, Birmingham, aud. ac.—*John Griffiths*, Wednesfield, Staffordshire, iron dealer, Aug. 6 at 11, Birmingham, aud. ac.—*Sir Charles Fox* and *John Henderson*, Smethwick, Staffordshire; New-street, Spring-gardens, Westminster, and Fore-street, Limehouse, Middlesex, engineers, Aug. 6 at 11, Birmingham, aud. ac. sep. est. of *John Henderson*.—*Richard Turner*, Stoke-upon-Trent, Staffordshire, cabinet maker, Aug. 8 at 11, Birmingham, aud. ac.—*Henry Haywood*, Coventry, Warwickshire, ribbon manufacturer, Aug. 8 at 11, Birmingham, aud. ac.—*Henry Johnson*, West Bromwich, Staffordshire, licensed

victualler, Aug. 8 at 11, Birmingham, aud. ac.—*George Taylor Lund*, Manchester, commission agent, Aug. 7 at 12, Manchester, aud. ac.—*William Moncrieff Bell*, Liverpool, draper, Aug. 22 at 11, Liverpool, div.—*William Robert Baxter* and *Frederick George Baxter*, Birmingham, curriers, Aug. 20 at 11, Birmingham, div.

## CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*Henry Pounceby*, Leman-street, Whitechapel, Middlesex, printer, Aug. 17 at 11, London.—*William Black*, Charles-street, St. James's-road, Holloway, Middlesex, builder, Aug. 17 at half-past 12, London.—*Thomas Lewis*, Abergavenny, Monmouthshire, ironmonger, Aug. 20 at 11, Bristol.—*Thos. Allen*, Newport, Monmouthshire, corn factor, Aug. 21 at 11, Bristol.—*Charles Jones*, Gloucester, sail maker, Aug. 21 at 11, Bristol.—*Joshua Eyre*, Chowbent, Leigh, Lancashire, silk manufacturer, Aug. 23 at 12, Manchester.—*Samuel Wright*, Manchester, hotel keeper, Aug. 31 at 12, Manchester.—*James McClure* the younger, Manchester, Manchester warehouseman, Aug. 30 at 12, Manchester.—*John Morbrey*, Sherwood-rise, Radford, Nottinghamshire, miller, Sept. 12 at half-past 11, Nottingham.—*Stephen Favell*, Bourn, Lincolnshire, coach builder, Sept. 12 at half-past 11, Nottingham.

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## TUESDAY, July 31.

## BANKRUPTS.

**JAMES HERBERT SMITH**, Wyld's-rents, Bermondsey, Surrey, tanner, Aug. 13 at 12, and Sept. 14 at half-past 1, London: Off. Ass. Whitmore; Sols. Clarke & Morice, 29, Coleman-street, London.—Pet. f. July 30.

**WILLIAM BOUND** the elder, Poole and Corfe Mullen, Dorsetshire, farmer, Aug. 11 at 11, and Sept. 14 at 1, London: Off. Ass. Whitmore; Sols. Aldridge & Barker, Poole; Skilbeck, 19, Southampton-buildings, Chancery-lane, London.—Pet. f. July 27.

**CLEEVE WOODWARD HOOPER and HENRY PARKINSON**, Seething-lane, City, leather factors, (trading under the style or firm of Hooper & Parkinson), Aug. 10 at half-past 1, and Sept. 14 at 11, London: Off. Ass. Whitmore; Sols. J. & W. Butler, 191, Tooley-street.—Pet. f. July 26.

**PHILIP HENRY PAYNE**, Euston-road, Middlesex, formerly of Bush-lane, Cannon-street, City, leather merchant, Aug. 10 at 11, and Sept. 14 at half-past 11, London: Off. Ass. Cannan; Sol. Howell, 15, Bow-lane, London.—Pet. f. July 26.

**EDWARD RUSSELL DAUNT and JOHN WILSON**, Old Broad-street, City, billbrokers, (now or lately trading under the style or firm of Daunt, Wilson, & Co.), Aug. 10 and Sept. 14 at 12, London: Off. Ass. Cannan; Sols. J. & J. H. Linklater & Co., 7, Walbrook.—Pet. f. July 30.

**JOSEPH BUSHELL and ALFRED WALKER**, Wood-street, London, and Harpenden, Hertfordshire, straw-hat manufacturers, Aug. 14 and Sept. 13 at 11, London: Off. Ass. Cannan; Sols. J. & J. H. Linklater & Co., 7, Walbrook.—Pet. f. July 31.

**RICHARD HEAFFORD**, Loughborough, Leicestershire, auctioneer, Aug. 16 and Sept. 11 at half-past 11, Nottingham: Off. Ass. Harris; Sol. Perkins, Loughborough, Leicestershire.—Pet. d. July 27.

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THE JURIST.

LONDON, AUGUST 4, 1866.

THE Legislature having undertaken the task of consolidating and amending, in part at least, the criminal statutes of the realm, it is to be hoped that, among other important subjects, their attention will be directed to that of *Corporal Punishment*—one worthy of consideration at any time, and at the present moment attracting the notice of the public in consequence of the recent conviction, at the Sussex Assizes, of a schoolmaster for manslaughter in the excessive chastisement of a pupil. In another part of the present impression will also be found an extract from a contemporary paper, shewing the number of instances in which corporal punishment has been inflicted in our gaols during the last three years.

Nothing can be more inconsistent and contradictory than the views prevalent at the present day in this country on the subject before us. One party denounces corporal punishment, under any circumstances, as barbarous and brutalising; and would prohibit its infliction either in families or schools, or by courts of justice, or even for the maintenance of naval or military discipline; and they appeal with considerable force to the utterly unjustifiable use made of it by our ancestors, and occasionally even in our own time, of which numerous instances can easily be collected. Others consider this mode of punishment indispensable, and urge that the abuse of a thing is no argument against its use; and some among these seem perfectly enamoured with it. When the bill on which the 16 & 17 Vict. c. 30, is founded, which empowers two justices of the peace or a metropolitan police magistrate, without the assistance of a jury, and without appeal, to

punish summarily, by six months' imprisonment and hard labour, persons guilty of aggravated assaults upon women and children, was brought into Parliament, it was proposed to superadd the punishment of the lash. The proposal was then rejected, but has been renewed from time to time; and in the present session of Parliament a bill was introduced with that object, and the first reading carried by a majority, upwards of 100 members voting in its favour. It was, however, rejected on the motion for a second reading, much to the individual security of the entire male population of the land.

In this conflict of opinion we do not mean to discuss the question, whether this punishment ought to be expunged from our jurisprudence. We will assume, as the law does, that there are cases in which it may be resorted to, as well in naval, military, and municipal law as in foro domesticum; in the ordinary criminal law, however, being restricted to males only, either adult or otherwise, and not to be inflicted more than three times for each offence; and will merely direct attention to a few points in which, as it appears to us, improvement in the existing system seems imperatively called for.

First, then, with respect to this punishment in private life. The case of the schoolmaster already referred to, barbarous as the conduct of the accused undoubtedly was, and great as the interest which the affair excited in the mind of the public, develops no new principle of law. It leaves the law on the subject as it has ever been, viz. that a parent *may* (not *must*, for it is entirely matter for his own discretion whether he will resort to this kind of discipline) administer *reasonable* corporal chastisement to his children; and a schoolmaster, being in loco parentis, has the same right impliedly delegated to him when a child is placed under his care. In the case in Sussex it appears that the parent had *expressly*

delegated that power; but this makes no difference, so far as the charge against the accused is concerned; for, as a parent has no right to inflict an unreasonable and barbarous chastisement himself, he cannot delegate such a right to any one else, even were he so minded, which there is not the least reason to believe the father of the deceased in that case was. But the right of a private individual to resort to this punishment is limited to the case of his children, and does not extend to his wife or servants. The old law, that a man might beat his wife under certain limitations, if, indeed, it ever existed, most certainly does not hold at the present day, although he may for misconduct deprive her of her liberty.

According to the general rule of the common law, the question, whether the chastisement inflicted by a parent or schoolmaster was reasonable, whether that chastisement had induced death or not, was determined by the tribunal of all others the best fitted to determine a question often so delicate in itself, and depending for its solution on such a variety of surrounding circumstances—a jury, acting under the direction of a judge as to the law. But since the 9 Geo. 4, c. 31, vested a summary jurisdiction in justices of the peace in cases of assault, they have occasionally exercised it where the defendant was a parent or schoolmaster, and the defence has been that the assault was committed in the way of lawful correction. We cannot help thinking that in these cases, (the second at least), condemnation by such a tribunal, even supposing it within the letter, is not within the spirit or intention of the statute. In correcting a child or pupil the parent or schoolmaster is doing a lawful act, the only question being, was that correction excessive in its character—a question on which his bread often, occasionally his very existence, depends; and such an issue surely ought not to be disposed of by one or two justices, without a jury, and without appeal.

Corporal punishment for offences against the law differs considerably from corporal punishment in private life. First, in the latter, the same person is both judge and executioner, and acts in both capacities on his own responsibility. Secondly, the comparatively arbitrary powers necessary for the government and development of the minds of children would be alike useless and mischievous in the case of adults; for which reason it is not advisable, as regards corporal correction in *foro domestico*, to define the *amount* of punishment beforehand, as is done in the naval and military services; and, we cannot help thinking, ought to be done when the punishment is inflicted by the civil power. Such is not the case at present, for although the condemned person must not be whipped more than three times, the instrument of correction may be anything, from a small twig to a cat-of-nine-tails; and the number of lashes is never specified in the sentence. The consequence is, as appears from the extract referred to, and as, we believe, pretty well known, that the severity of this punishment varies immensely, according to the gaol where it is inflicted; so that, unless the judge who passes a sentence of corporal punishment is conversant with the discipline of the gaol where the punishment will be carried out, he cannot know what sentence he is passing, nor can the accused know what punishment he is to expect. And this is the more important since the practical disuse of public whipping, which was at least attended with the advantage of rendering amenable to the control of public opinion both the judge who pronounced the sentence, and the officer who carried it into effect.

There is one statement in the extract in question which we hope is a mistake—viz. that in some parts of the country corporal punishment is inflicted on adults in such a manner as to cause indecent exposure of the person—a practice certainly not usual in our gaols, and at variance with that of the navy and the army. If, however, that statement should unfortunately be true, the sooner the practice is discontinued the better; and, indeed, it may be a question whether it is quite a safe one for those who resort to it. At the Maidstone Spring Assizes, 1842, (*Reg. v. Miles*, 6 Jur., part 1, p. 243), the master of an union workhouse was indicted for having, under colour of his authority as such, inflicted by his own hand corporal chastisement on the naked person of a female pauper, then an inmate of the workhouse. The chastisement not being suggested to have been excessive, the defendant's counsel took the objection that he was only exercising lawful authority in *foro domestico*; but Gurney, B., said, "The indecency of the mode of correction places it on the footing of unreasonable correction." The defendant then withdrew his plea of not guilty, and, if we remember right, was sentenced to three months' imprisonment.

## PUBLIC EXAMINATION OF STUDENTS.

MICHAELMAS TERM, 1886.

THE Council of Legal Education have approved of the following rules for the public examination of the students.

The attention of the students is requested to the following rules of the Inns of Court:—

"As an inducement to students to propose themselves for examination, studentships shall be founded of fifty guineas per annum each, to continue for a period of three years, and one such studentship shall be conferred on the most distinguished student at each public examination; and further, the examiners shall select and certify the names of three other students who shall have passed the next best examinations, and the Inns of Court to which such students belong may, if desired, dispense with any terms, not exceeding two, that may remain to be kept by such students previously to their being called to the Bar. Provided that the examiners shall not be obliged to confer or grant any studentship or certificate unless they shall be of opinion that the examination of the students they select has been such as entitles them thereto."

"At every call to the Bar those students who have passed a public examination, and either obtained a studentship or a certificate of honour, shall take rank in seniority over all other students who shall be called on the same day."

"No students shall be eligible to be called to the Bar who shall not either have attended during one whole year the lectures of two of the Readers, or have satisfactorily passed a public examination."

### RULES FOR THE PUBLIC EXAMINATION OF CANDIDATES FOR HONOURS, OR CERTIFICATES ENTITLING STUDENTS TO BE CALLED TO THE BAR.

An examination will be held in next Michaelmas Term, to which a student of any of the Inns of Court, who is desirous of becoming a candidate for a studentship or honours, or of obtaining a certificate of fitness for being called to the Bar, will be admissible.

Each student proposing to submit himself for examination will be required to enter his name at the treasurer's office of the Inn of Court to which he belongs on or before Tuesday, the 23rd day of October next; and he will further be required to state in writing whether his object in offering himself for examination is to compete for a studentship or other honourable distinction.

tion, or whether he is merely desirous of obtaining a certificate preliminary to a call to the Bar.

The examination will commence on Tuesday, the 30th day of October next, and will be continued on the Wednesday and Thursday following.

It will take place in the Benchers' Reading-room of Lincoln's-inn; and the doors will be closed ten minutes after the time appointed for the commencement of the examination.

The examination by printed questions will be conducted in the following order:—

Tuesday morning, the 30th October, at half-past nine, on Constitutional Law and Legal History; in the afternoon, at half-past one, on Equity.

Wednesday morning, the 31st October, at half-past nine, on Common Law; in the afternoon, at half-past one, on the Law of Real Property, &c.

Thursday morning, the 1st November, at half-past nine, on Jurisprudence and the Civil Law; in the afternoon, at half-past one, a paper will be given to the students including questions bearing upon all the foregoing subjects of examination.

The oral examination will be conducted in the same order, during the same hours, and on the same subjects as those already marked out for the examination by printed questions, except that on Thursday afternoon there will be no oral examination.

The oral examination of each student will be conducted apart from the other students; and the character of that examination will vary, according as the student is a candidate for honours or a studentship, or desires simply to obtain a certificate.

The oral examination and printed questions will be founded on the books below mentioned, regard being had, however, to the particular object with a view to which the student presents himself for examination.

In determining the question, whether a student has passed the examination in such a manner as to entitle him to be called to the Bar, the examiners will principally have regard to the general knowledge of law and jurisprudence which he has displayed.

A student may present himself at any number of examinations, until he shall have obtained a certificate.

Any student who shall obtain a certificate may present himself a second time for examination as a candidate for the studentship, but only at one of the three examinations immediately succeeding that at which he shall have obtained such certificate; provided, that if any student so presenting himself shall not succeed in obtaining the studentship, his name shall not appear in the list.

Students who have kept more than eleven terms shall not be admitted to an examination for the studentship.

The READER ON CONSTITUTIONAL LAW AND LEGAL HISTORY will expect the candidates for honours to be well acquainted with the origin and progress of our Laws and Constitution, as explained in chap. 8, part 3, of Hallam's History of the Middle Ages.

He will expect them to be well acquainted with the chapters in Hallam's Constitutional History which give an account of the Reigns of Elizabeth, the Stuarts, William III, and Anne; with the State Trials of persons eminent in our history, or remarkable for any other reason, from the time of Henry VIII to the Accession of George I, with the History of the Law of Treason and Libel.

All candidates will be required to know the leading events in English History from the Conquest to the Accession of George III; to have an accurate knowledge of the Reigns of the Stuart Kings, of Magna Charta, the Petition of Right, the Bill of Rights, and the Act of Settlement.

The READER ON EQUITY proposes to examine in the following books:—

1. Haynes's Outlines of Equity; Smith's Manual of Equity Jurisprudence; Hunter's Elementary View of the Proceedings in a Suit in Equity, part 1.

2. The Cases and Notes contained in the first volume of White & Tudor's Leading Cases, and the following Cases in the second volume:—*Aldrich v. Cooper*, *Hooley v. Hatton*, *Ex parte Pye*, *Chancey's case*, *Townley v. Sherborne*, and *Bryce v. Stokes*, and the Notes on those Cases; the Act to further amend the Law of Property and to relieve Trustees, (22 & 23 Vict. c. 35); Mitford on the Pleadings in the Court of Chancery—Introduction; c. 1, ss. 1, 2; c. 1, s. 3, (the first six pages); c. 2, s. 1; c. 2, s. 2, part 1, (the first three pages); c. 2, s. 2, part 2, (the first two pages); c. 2, s. 2, part 3; c. 3.

Candidates for certificates of having passed a satisfactory examination will be expected to be well acquainted with the books mentioned in the first of the above classes.

Candidates for a studentship or honours will be examined in the books mentioned in the two classes.

The READER ON THE LAW OF REAL PROPERTY proposes to examine in the following books and subjects:—

1. Joshua Williams on Real Property, 5th ed.

2. On the Mutual Rights of Husband and Wife as regards Property: Joshua Williams on Personal Property, part 4, c. 5, 4th ed.; Josiah W. Smith on Real and Personal Property, pp. 973-1010, 2nd ed.; and the Stat. 20 & 21 Vict. c. 57.

3. Particulars and Conditions of Sale: Sugden's Vendors and Purchasers, pp. 11-35, 13th ed.; or Dart's Vendors and Purchasers, c. 5, pp. 68-112, 3rd ed.

4. The Stat. 3 & 4 Will. 4, c. 74, for the Abolition of Fines and Recoveries; Lord St. Leonards' Essay on the Real Property Statutes, c. 2.

5. The Law of Perpetuities: *Cadell v. Palmer*, (1 Cl. & Fin. 372), and the Notes to that Case in Tudor's Leading Cases in Conveyancing, p. 321.

Candidates for honours will be examined in all the foregoing subjects; candidates for a certificate in those under heads 1, 2, and 3.

The READER ON JURISPRUDENCE and the CIVIL LAW proposes to examine candidates for honours in the following books and subjects:—

1. The Roman Law of Persons and of Contract, and Delict—Warnkönig, *Institutiones Juris Romani Privati*, book 1 and book 3 of edition of 1860, (excluding the Introduction).

2. Lindley's Introduction to the Study of Jurisprudence, (translated from Thibaut), part 2, c. 1, divs. 2, 3, and 4, "Of Duties," "Of the Relations of Rights and Duties to each other," and "Of Modifications of Rights and Duties," with the Notes of the Translator.

3. Wheaton's Elements of International Law, part 4, cc. 1, 2, (vol. 2 of the English edition), "Of the Commencement of War," and "Of Rights of War as between Enemies."

Candidates for a pass certificate will be examined in—

1. The Institutes of Justinian, books 1 and 3, with the Notes in Sandars's edition, or the Explanations in Cumin's Manual.

2. Wheaton's Elements of International Law, part 4, cc. 1, 2, "Of the Commencement of Hostilities," and "Of Rights of War as between Enemies."

The READER ON COMMON LAW proposes to examine in the following books and subjects:—

Candidates for a pass certificate will be examined as to—

1. The Ordinary Practice and Course of Pleading in an Action.

2. The Principles of our Common Law, so far as set forth in Broom's Legal Maxims, 3rd ed., cc. 1-6, ss. 1, 2.

3. Smith's Lectures on Contracts, (3rd ed., 1860), by Malcolm, Lectures 1-6 inclusive.

4. Stephen's Commentaries, last ed., book 4, "Of Crimes," cc. 1-4 inclusive.

Candidates for the studentship or honours will be examined in the above books and subjects, and also as to—

5. The following Cases, with the Notes appended thereto, in Tudor's Leading Cases in Mercantile and Maritime Law:—*Sandilands v. Marsh*, *Tarling v. Baxter*, *Hanson v. Meyer*, *Chase v. Westmore*, and the *Case of Market Over*.

6. Story on Bailments, cc. 2-5, "Of Deposits, Mandates, Gratuitous Loans, Pawns, or Pledges."

7. Taylor on Evidence, 3rd ed., part 1, c. 3; part 2, cc. 3-5, 13-15.

8. The Law relating to Simple Larceny, as exemplified by *Reg. v. Thurborn* (1 Den. C. C. 387) and *Reg. v. Preston*, (2 Den. C. C. 353).

By order of the Council,

RICHARD BETHELL, Chairman.

### PROSPECTUS OF THE LECTURES

To be delivered during the ensuing Michaelmas Educational Term by the several Readers appointed by the Inns of Court.

#### CONSTITUTIONAL LAW AND LEGAL HISTORY.

THE Reader will pursue the History of our Constitution from the Accession of Henry VIII to the Accession of George III. He will trace the progress and varieties of judicial opinion as it affected the interpretation of Law—the Law of Real Property, the Law of Evidence, the Law of Libel, the Criminal Law, and the Doctrines of Equity; and he will point out the changes and growth of the Statute Law during the same period.

In his Private Classes he will begin with the early History of our Constitution, and explain its gradual progress during the Reigns of the Plantagenets.

The books to which he will refer are—Blackstone's Commentaries, by Kerr—Hallam's Constitutional History—Rapin's History of the Period—Appendices to Hume's History—State Trials of the Period—Butler's Notes to Coke Littleton—Statute Book of the Period—Fortescue, (Amos)—Parliamentary History—Hayes's History of Conveyancing—Clarendon's Life and History—May's History—Burnet's History—Ralph's History—Starkie's Law of Libel—Greenleaf on Evidence.

#### EQUITY.

The Reader on Equity proposes to deliver, during the ensuing Educational Term, a course of Six Lectures:—

1. On the History and Constitution of the Court of Chancery.

2. On the Nature of Equity Pleadings.

3. On the Jurisdiction exercised under the Sign Manual in Lunacy.

4. On the Law of Bankruptcy.

The Reader on Equity proposes to form two Private Classes, a Senior and Junior, according to the amount of preliminary knowledge possessed by the Students; using in the Junior "Smith's Manual of Equity Jurisprudence," as a text-book; and in the Senior, examining the principal branches of Equitable Jurisdiction, with a frequent reference to Cases; and also commencing the perusal of Lord Redesdale's Treatise on Equity Pleadings.

#### THE LAW OF REAL PROPERTY.

The Reader on the Law of Real Property proposes to deliver, in the ensuing Educational Term, a series of Six Public Lectures on the following subjects:—

1. A Comparison between the Old and New Law with respect to Wills.

2. The Stats. 1 Vict. c. 26, and 15 & 16 Vict. c. 24.

3. The decisions upon those Statutes.

In his Private Classes the Reader on the Law of Real Property will refer more particularly to the cases cited in the Public Lectures. He will also endeavour to go through a complete course of Real Property Law, using the work of Mr. Joshua Williams as a text-book.

#### JURISPRUDENCE AND THE CIVIL LAW.

The Reader on Jurisprudence and the Civil Law proposes, in the course of the ensuing Educational Term, to deliver Six Public Lectures on the following subject:—

The Roman Law of Testaments and Legacies, and the Principles which have descended from it to Modern Jurisprudence.

With his Private Class the Reader will proceed through the principal departments of Roman Law, taking as his text-book the *Institutiones Juris Romani* Privati of Warnkönig, and beginning at the First Chapter of that work. The Course will, if possible, be so arranged that a definite portion of its subject may be completed in each Educational Term.

#### COMMON LAW.

The Reader on Common Law proposes to deliver, during the ensuing Educational Term, Six Public Lectures, as under—

Lecture 1 will be introductory to the Study of the Law.

The remaining Lectures of the Course will be devoted to the following subjects:—

1. The Sources whence our Common Law has been derived.

2. The Leading Principles of Law, as applied in Civil or Criminal Cases.

3. Tribunals which administer the Common Law.

With his Private Class the Reader will explain and trace out the operation of Legal Principles, illustrating this subject by references to decided Cases, and using as text-books Smith's Leading Cases, (4th edition); Broom's Legal Maxims, (3rd edition); and Stephen's or Blackstone's Commentaries.

By order of the Council,

(Signed) RICHARD BETHELL, Chairman.

### REPORT OF THE COMMISSIONERS

APPOINTED TO INQUIRE INTO THE EXPEDIENCY OF BRINGING TOGETHER INTO ONE PLACE OR NEIGHBOURHOOD ALL THE SUPERIOR COURTS OF LAW AND EQUITY, THE PROBATE AND DIVORCE COURTS, AND THE HIGH COURT OF ADMIRALTY, AND THE VARIOUS OFFICES BELONGING TO THE SAME, AND INTO THE MEANS WHICH EXIST, OR MAY BE SUPPLIED, FOR PROVIDING A SITE OR SITES, AND FOR ERECTING SUITABLE BUILDINGS, FOR CARRYING OUT THIS OBJECT.

#### To the Queen's Most Excellent Majesty.

WE, the undersigned members of your Majesty's commission for the purpose of inquiring into the expediency of bringing together into one place or neighbourhood all the Superior Courts of Law and Equity, the Probate and Divorce Courts, and the Court of Admiralty, and the various offices belonging to the same, and into the means which exist, or may be supplied, for providing a site or sites, and for erecting suitable buildings, for carrying out this object, humbly certify to your Majesty that we have proceeded in the discharge of the duty imposed upon us, and are now prepared to submit to your Majesty the conclusions to which we have been led, and the recommendations consequent thereon which we have agreed to as proper to be made.

1. The inquiry which it has been our duty to make obviously divides itself into three heads—the expediency of the concentration into one place or neighbourhood; the selection of a site or sites; and the suggestion of the pecuniary means for procuring it or them, and for erecting suitable buildings thereon.

2. We have proceeded accordingly; upon all these branches we have examined many witnesses, and availed ourselves of inquiries already made, under parliamentary authority or otherwise, on the same or closely connected subjects; we have also called for, and been supplied with, returns from different offices; and upon some parts of our inquiry we have all of us, in a greater or less degree, had the benefit of personal experience, which has enabled us, we trust, more correctly to appreciate the evidence and the information derived from other sources.

3. Upon the desirableness of such a concentration as your Majesty's commission describes we have had no division of opinion, or difficulty in arriving at our conclusion. The evidence of witnesses entitled to the greatest consideration, personally, and from their means of acquiring knowledge on the subject, may be stated as being all on one side. In speaking of concentration, we find it necessary to include, not merely that of courts with courts, but of courts with their offices, and, in a larger sense, with the chambers of the bar, and the offices of the attorneys, and also the requisite of sufficient and well-arranged accommodation for the judges, the officers, the bar, the attorneys, the jurymen, and the public—meaning by the latter term, and especially with regard to the courts themselves, the suitors, the witnesses, and such a number of persons coming either to learn, or merely to satisfy a reasonable curiosity and interest, as the indispensable character of open courts requires to be provided for. The judges cannot discharge all branches of their duties without private rooms, in addition, and attached, to their courts; and so large and such an important portion of their business, in all the branches of the law, is transacted at chambers, that rooms specially adapted for the purpose, and of considerable size, are necessary for these also. The chambers, indeed, are but informal courts; great numbers of persons are in attendance there at the same time, and beyond these a considerable staff of clerks is permanently occupied, and many books and papers are constantly kept there. Every court, too, has various offices attached to it, in which its judgments, decrees, and orders are reduced into form, and from which they issue to the parties interested—in which a variety of documents are from time to time filed—in which, also, references from the court to its Masters are conducted: all these purposes require considerable space. The barristers, and attorneys and solicitors, must have, not merely accommodation for the conduct of causes in court, but rooms near to the courts, in which they may, at intervals, meet and consult. For the jurymen, those who are actually impannelled, and those in attendance, as well as for witnesses, retiring rooms and waiting rooms are a matter of necessity; and it is essential to the satisfactory administration of justice that the public should have convenient access to the courts, and suitable sitting room within them.

4. But of all these parties none is ultimately so largely interested as the public itself, for which alone, indeed, judges and officers, barristers and attorneys, courts and offices are provided. Of all the elements of expense in litigation there is none more important than time; of all the sources of vexation attendant on it there is none more bitter than unnecessary delay. If court be separated from court, and courts be at a distance from their offices—if these last be separated from each other—if both be at a distance from the chambers of barristers and the offices of attorneys and solicitors—it is obvious that time must be lost in the transaction

of business, in every stage of it, by every one concerned in it. The superior courts of law and equity are very commonly sitting in eleven places, and often in more, at the same hour; and single judges are frequently required to be sitting in two places at different hours on the same day. While the courts themselves are also still sitting, the exigencies of business will often make it the duty of the same barristers, and of the same attorneys and solicitors, to be in attendance on more than one cause in different branches even of the same court, it may be even in the same cause, on the same day, and at the same or nearly the same times. It must be obvious that the only mode by which the inconveniences, the adjournments, and delays, which all this implies, can be remedied, or reduced within a bearable amount, is by a close approximation and a judicious arrangement of the courts and their offices in a well-chosen site. And it must not be overlooked, that the tendency to what is called a fusion of law and equity, or, more properly, an attribution to the courts of law and equity respectively of some of the functions and powers heretofore belonging only to each, brings with it an increased necessity for such an approximation as we have spoken of. For although it may not be possible that in two systems so highly artificial, and at the same time so extensive, the same practitioners should be so soundly and thoroughly instructed as to practise indifferently and with equal advantages in the courts of each, yet it is both possible and desirable that the advocates in each should be generally, and not merely superficially, informed in the law and practice of both; and to this a ready communication between the practitioners will contribute much. The attorneys, too, will find it much more easy to attend in person, and not by their clerks, when different causes come on for hearing in different courts on the same day. Meantime, as regards the Bar, what has been done in this direction already has had the effect of calling barristers frequently from the common-law courts to the courts of equity, and conversely. It is of frequent occurrence now for common lawyers to conduct the oral examination of witnesses in equity, and for the Chancery lawyer to sustain or resist an application for an injunction or discovery in a court of common law.

5. It may be suggested that much of the inconvenience now existing would cease if all practitioners were to confine their attendance more strictly to some particular court or courts. It is not within our province to go into the large question which this raises further than affects our present inquiry. It may be that individual practitioners, from whatever motive, or under whatever necessity, accept business more in amount, and more widely scattered, than under the happiest arrangements of courts they can properly perform; but the difficulties of avoiding or preventing this are greater than is commonly supposed—for junior barristers we believe them to be insuperable. In the earlier stages of litigation, in which junior barristers are most commonly engaged, it is often not known in what court the cause will be heard; and it would be most seriously prejudicial to the client to be deprived, in the later stages of the cause, of the counsel whom he had consulted, and on whose advice he had acted, in its commencement. We are, of course, no advocates for an abuse, but we are certain that no improvement which can be anticipated in this respect would have the effect of removing the evils arising from want of concentration.

6. Your Majesty has directed us to consider the propriety of concentration not merely of the Superior Courts of Law and Equity, but also, with them, of the Probate and Divorce Courts, and the Court of Admiralty. In some respects these might have seemed, especially the latter, to come under different considerations from the courts of law and equity, but for changes

which have recently taken place. The business of the courts which the Probate and Divorce Courts now represent, and of the Admiralty, was transacted by advocates and proctors, forming a distinct branch of the Profession from the general body of barristers and attorneys; their chambers, and the offices and depositories of the courts, were in convenient nearness to the courts themselves; it was for the Probate Court desirable that it should not be removed far from the Bank, and for the Admiralty that it should be near to the places of business of the merchants, mariners, and shipowners who had principally occasion to resort to it. Nearly all these special circumstances have now ceased to exist. Doctors' Commons has been broken up; the courts sit at Westminster; the practice is thrown open to the whole Profession in both branches without distinction. The depository of the Probate Court is so entirely inadequate that a new one on a very extended scale must be constructed; and if the site which we are prepared to recommend be adopted, the Probate Court and its depository will be brought much nearer to Somerset House than at present, which we are assured will be more than a compensation for the removal to a greater distance from the Bank. It is obvious, however, that a considerable period of time must elapse before the new building for this new depository can be finished; and we do not, therefore, see any reason to believe that the act of Parliament passed during the last session, empowering the Government to purchase the site occupied by the College of Advocates, need interpose any obstacle to the execution of the design which we are prepared to recommend; and the Court of Admiralty will be nearer to the city than it is at present, since its removal to Westminster Hall. We should certainly be desirous of making the concentration we recommend as comprehensive as possible, much of its advantage depending on its completeness; but, apart from this, we think that, with the present functions of these courts, and in the altered state of the Profession in both branches, there would be a manifest inconvenience in omitting them.

7. The present state of the courts and offices is nearly as follows:—Practically the courts of equity have ceased to sit at Westminster, and now sit in convenient neighbourhood to each other in Lincoln's-inn, with the exception of the Rolls, the court for which is in Chancery-lane, at a short distance only. Their offices and chambers, fourteen in number, are scattered about in Chancery-lane, Quality-court, the Rolls-yard, Lincoln's-inn, and Staple-inn. To these must be added the offices of the Master in Lunacy, in Lincoln's-inn-fields; of the Registrar in Lunacy, and that of the Bankrupt Appeals, in Quality-court; and the Patent Office, in Southampton-buildings. The courts of common law sit in Westminster Hall, conveniently near to each other; but the judges' chambers are in the Rolls-gardens; the Masters' offices of the Queen's Bench are in King's Bench-walk and Mitre-court-buildings, in the Temple; those of the Common Pleas, in Serjeants'-inn and Chancery-lane; those of the Exchequer, in Stone-buildings, Lincoln's-inn; that of the Queen's Remembrancer, in Chancery-lane; that of the Registrar of Acknowledgments of Married Women, in Lancaster-place; that of the Registry of Judgments, in Serjeants'-inn; that of the Associates and Marshals, in Chancery-lane.

8. The judge of the Probate and Divorce Courts has no court of his own, but sits for the present, by permission of the Lord Chancellor, in the Lord Chancellor's Court in Westminster Hall; his registrar's office, however, and the depository of wills, are still remaining in Doctors' Commons. The judge of the High Court of Admiralty is also without any court of his own; he has been used to sit, by permission of the College of Advocates, in their hall, and now sits, by permission, in the court of the Master of the Rolls at Westminster;

but the office of his registrar, and that of the Admiralty Marshals, are still in Doctors' Commons.

9. Substantially, therefore, the courts to which our inquiry extends are in two divisions—Lincoln's-inn and its neighbourhood for the equity branch; Westminster Hall for the common law, probate and divorce, and the High Court of Admiralty. The offices of the former are scattered about at no great distance from Lincoln's-inn; the offices of the latter are separated from them by the whole distance from Westminster Hall to the Temple, Chancery-lane, the higher parts of Lincoln's-inn, and Doctors' Commons.

10. This sketch, however, will be imperfect without adding, that the barristers who practise in the courts of equity for the most part have their chambers situated with considerable convenience in and about Lincoln's-inn; but those who practise in the courts of common law for the most part have their chambers in or about the Temple. Of the London attorneys, more than two-thirds, and among them probably a much larger proportion of those who are agents of country attorneys, have their offices in what some of our witnesses designated as the law district, meaning thereby the Inns of Court, and the streets and Inns of Chancery in the neighbourhood.

11. We still, however, have not the whole case upon the practical propriety of concentration before us, until we have seen whether the several courts, and their several offices, considered without reference to it, are sufficient and convenient, and suitable for their respective purposes. Now, with respect to the equity courts, we see no reason to doubt that the Lord Chancellor, the Lords Justices, the Master of the Rolls, and the senior Vice-Chancellor are accommodated with reasonable convenience, and with some regard to the dignity of their stations; as to these, it is only to be remarked that they sit, not, as might be expected, in public buildings, the property of the nation, but, with the exception of the Master of the Rolls, as tenants at most for years, and as regards the highest of them, the Lord Chancellor and the Lords Justices, as tenants at will of the Benchers of Lincoln's-inn. But the courts of the two remaining Vice-Chancellors are utterly unfit for their purpose; in structure, size, proportion, ventilation, and arrangement, it is difficult to speak of them in too strong terms of disapproval. They are so unfit as to make it necessary for us to report to your Majesty upon the urgent propriety of some immediate measure for the better accommodation of these two judges. What we have said of their courts applies with equal, if not greater, force to their chambers; it almost requires ocular inspection to conceive fully how insufficient, inconvenient, and unwholesome they are. The only explanation which can be offered for this is, that they were hastily provided for a temporary accommodation, which it was assumed would be very soon replaced by something permanent, and on a proper scale; and it is certainly high time that the just claims of these judges, and not less those of their clerks and of the public, in these respects, should be attended to.

It is right to state that this particular branch of our subject had been under the consideration of the then Lord Chancellor (Lord Chelmsford) and other equity judges, as well as of the Honourable Society of Lincoln's-inn, before the date of our commission; and there has been laid before us a matured scheme for the purpose of providing additional courts and chambers within the limits of Lincoln's-inn. It is no part of our duty to enter into any minute consideration of the details of this scheme; the proposed buildings, we are informed, would satisfy the judges more immediately concerned; and we have no reason to doubt that, in respect of accommodation, they would meet the requirements of the public. This scheme, however, is not a temporary one, nor can it be carried into effect except by a very large



outlay of money; it is founded on the principle of making permanent the present separation of the equity courts from those of the common law, and all other branches of the administration of justice. The scheme is to be effected by enabling the Society of Lincoln's-inn to raise a fund of 100,000*l.*, or more if necessary; the interest on 100,000*l.*, at 4*l.* per cent., being secured by a perpetual charge of 4000*l.* on the income of one of the funds with which we propose to deal. The principle on which this arrangement proceeded was, that an annual sum, exceeding 2000*l.*, is already paid out of the fund in question for the rent of the Vice-Chancellors' chambers and for the two Vice-Chancellors' courts, and it was conceived that the increased accommodation would justify the increased rent. The Society, in the proposed scheme, took on itself the responsibility of any excess in the outlay beyond 100,000*l.* It is, therefore, inconsistent with the recommendations which we think it our duty to make; and not only so, but it will, if carried into effect, certainly postpone for an indefinite period, if not practically extinguish, all hope of the general concentration to which we attach so much importance. We should have been much pleased if we had found it possible to provide for a time courts and chambers in Lincoln's-inn substantially as convenient and suitable for their purposes, in buildings however divested of architectural dignity and ornament; but the want of space there will make even this impossible, without calling on the Society for sacrifices of property in chambers which it would be unreasonable to ask of them for a merely temporary purpose. We are compelled, therefore, to limit ourselves to recommending alterations in the present courts, which, we are assured, will have the effect of removing defects in the ventilation, and of preventing them from being either distressingly hot and close or cold at any period of the year. This we think should be done, with the permission of the Society, at the public expense. In respect to the chambers, it would not be right to suggest any measures specifically, the matter being so much in the discretion of the Society, and the practicability of any suggestion depending much on local circumstances not within our knowledge; but the Benchers will no doubt feel anxious, in the spirit which has always actuated them, to meet, so far as they are able, the just requirements of the public. Whether this can be best effected by the granting of other or additional chambers, or by a new arrangement of those at present devoted to the purpose, they will be the best judges; but it seems to us very desirable, and we can hardly suppose it to be impossible, to provide each Vice-Chancellor, and each of his chief clerks, with one spacious room for transacting public business; a room of proper size for solicitors and parties in attendance; and other rooms for the accommodation of the junior clerks, and the custody of the numerous books and papers from time to time placed there during the pendency of causes. Whatever alterations the fulfilment of these objects may require should be made at the expense of the public, and when the temporary want ceases, the expense of making the chambers fit for their original purpose should be borne in the same way. The interests of the Society should not suffer by thus supplying a public want; though it has, no doubt, advanced considerably in character and prosperity, by having become, as it were, the home of our courts of equity. The honourable connexion so formed has entailed on it, to some extent, the liability to meet such a call on it as the present, and we have no doubt that if that connexion should be terminated by the general concentration we recommend being carried into effect, it will receive, in its interests at least, a full compensation by the increased demand for chambers from practitioners, who may be reasonably expected to cluster round the courts in its immediate neighbourhood from the city and the remoter parts of London.

12. Passing from the courts of equity to those of common law, we find that for the greater part of every term each court, besides sitting in Banc, has a single judge sitting at Nisi Prius at Westminster; and that after term each court has very commonly two separate courts of Nisi Prius sitting at the same time. Very commonly, too, each court, in order to dispose of arrears of the preceding term, sits in Banc after each term for a number of days, varying according to the requirements of business. These arrangements, in excess of the former sittings in Banc and at Nisi Prius, have become necessary, partly from the increase of business in the courts, partly from the effect of modern alterations by Parliament in the law and in legal procedure. Nor is there any reason to believe that the necessity for them will be temporary; rather it may be expected that the steady and rapid advance of the country in all material respects may make a still increased amount of accommodation desirable. Beyond all these, the sittings of the Courts of Error, and of the Court of Criminal Appeal, require, the first of them always, and the latter not unfrequently, a spacious court for several days after each term.

13. In order to supply these wants, the least that is required for each court is to provide it with two halls for the public administration of justice; the courts of error and criminal appeal require another spacious hall; and to each of these seven halls should be attached a convenient robing and withdrawing room for the judges. Even with these occasional inconvenience might occur for want of room. It should be remembered that the judges have not the whole vacation after term at their disposal for holding their sittings; the post-terminal Banc sittings, the sittings in error, and in the Court of Criminal Appeal, cannot be held, after the Nisi Prius sittings have ended at Westminster, and commenced at Guildhall, without the greatest inconvenience to the Bar, and risk of great injustice and reasonable dissatisfaction to the suitor. We state this amount of requirement not as all that might be desirable, but as that which, by arrangement among the judges, and with a view to the strictest economy, might be made tolerably well to serve the purpose. We say nothing, at present, of the offices which ought to be attached to each court; but it would be indispensable that there should be provided, simultaneously with the courts, robing-rooms for the Bar, an adequate number of consultation-rooms, and a reading-room; waiting-rooms for attorneys and for jurymen in attendance, a withdrawing-room for the jury impanelled to consider of their verdict, and two waiting-rooms for the witnesses in attendance for the respective parties in the cause before the court.

14. These being the necessary requirements, on the most limited scale, we are now to state what at present exists to satisfy them. The Court of Queen's Bench has its principal court, and a small one, intended originally for the taking of bail upon mesne process, and called the Bail Court. This latter court is, in respect of size, arrangement, lighting, and ventilation, wholly unsuited for trials by jury; so that until the necessity of providing for the Courts of Probate and Divorce, and the High Court of Admiralty, it had been usual for the judge to procure the permission of the Lord Chancellor to sit in his court, or some other Chancery court. The judges have a robing and retiring room, in which they also hear summonses occasionally, and a room for their clerks in attendance on them. The Court of Common Pleas has but one court, which was built at a time when the serjeants alone had audience in it, and the business, together with the attendance of the bar and the public, was very limited. It is now much too small for the convenient discharge of the business before the court. It has no second or Nisi Prius court; the Nisi Prius sittings in term have been held at the Westminster Sessions House, or in a parliamentary committee-room,

or in a Chancery court, borrowed for the purpose. The Court of Exchequer has one large court, and for its *Nisi Prius* sittings in term, the Court of Exchequer Chamber—a court wholly inadequate in size for the purpose, and with its interior arrangements wholly unsuited to it; indeed, for every purpose to which it is applied, it is lamentably inconvenient. In respect of retiring rooms for the judges, and rooms for the clerks, these two courts are nearly on a footing with the Court of Queen's Bench, and all these are miserably unprovided in respect of accommodation for the bar, the attornies, the jurymen, the witnesses, and the suitors.

15. As regards the Courts of Divorce and Probate, and the High Court of Admiralty, we have already stated the temporary and very insufficient and precarious provision made for them.

16. It is clear, upon this statement, that apart from the question of concentration, and even supposing that in point of space room could be found at Lincoln's-inn for the accommodation of the courts of equity and their offices, and for the common law and other courts with their offices at Westminster, it would be necessary to incur very considerable expense in both places in order to give them respectively proper accommodation. It is difficult to convey in statement an adequate idea of the daily mischief which results from the scanty and inconvenient accommodation which the country at present affords for the great object of the central administration of justice; how much fatigue, bodily ailment, dissatisfaction are created by it; how much the course of business is delayed, impeded, diverted by it; nor how, in a great number of ways, it is rendered more costly.

17. We have thought it right thus in detail to lay before your Majesty the various grounds on which we are induced to recommend a concentration of the courts. Our next consideration was the place in which they should be brought together. Three only have been presented to our notice—1. Westminster; 2. A portion of the interior of the square of Lincoln's-inn-fields; and, 3. A site bounded, to speak generally, by Carey-street on the north, Pickett-street and the Strand on the south, Bell-yard on the east, and Clement's-inn on the west. It is this last, to be described more fully hereafter, which we recommend for selection.

18. For the first site may be urged the influence of very old and venerable associations, to the value of which we are by no means insensible; the convenience of its neighbourhood to the two Houses of Parliament, many of the public offices, and the Privy Council; the advantage of Westminster Hall as a place of common resort for suitors; and its nearness to the river, making it easy of access even from the city. It must be admitted, too, that by removing the courts and the general administration of the law from Westminster, we so far break in on the principle of concentration, as we thereby make the separation more complete between those members of the Bar and those attornies and solicitors who practise in the House of Lords, the parliamentary committees, and before the Judicial Committee of the Privy Council, and the rest of the Profession. These courts, if for the present purpose we may so call them, were not included in your Majesty's commission; but we have not overlooked any of these considerations; they seem, however, to be conclusively outweighed by two on the other side—the first, that by bringing all the courts and their offices to Westminster, we should re-create, as regards the lawyers who practise in equity, and perpetuate, as regards those who practise at common law, and also as regards the main body of London attornies and solicitors, the very serious inconvenience of separation from their chambers and offices; the second, the entire want of such space at Westminster, contiguous or even near to Westminster Hall, as would be necessary for the purpose. Nor do we think it at all desirable, with the experience of

the present courts, and of the committee-rooms of the two Houses, to place the new buildings on ground so low and in such close vicinity to the river.

19. The second site was recommended to us by Mr. Harvey Gem, a gentleman who professed, and we have no reason to doubt correctly, to represent a large proportion of the proprietors of houses in Lincoln's-inn-fields. He proposed to give a site, not exceeding four acres, in the garden of the square, on condition that the Government should expend the sum of 360,000*l.*, which he considered to be the cost of an adequate site elsewhere, in making certain improved approaches to the square. These, he thought, it would at present be desirable, and at no distant period necessary, on public grounds, to make; and that, by making them, all objections on sanitary grounds to the covering with building the present open space would be obviated. The square, measuring from the fronts of the houses, is stated to contain nearly twelve acres. Mr. Gem's plan was to allow three acres for the site of the courts, and five for a public garden on the north and south of them. This space, however, even if an acre more were deducted from the garden and added to the building ground, would not suffice for the buildings which will be found necessary to include all the offices and the depository for wills; if as much were taken from the interior of the square as would be necessary for these purposes, which we have reason to believe would be strongly objected to by the occupiers of the buildings and houses round, we are certain that the sanitary objection might with justice be urged; and the remedy suggested by Mr. Gem is too uncertain and remote for us to found our recommendation upon it.

20. We have, therefore, been brought to the consideration of the remaining site. In favour of this we have the concurrent testimony of witnesses from every branch of the Profession. It is so near to Lincoln's-inn-fields, that, as to actual convenience of position, little difference exists between the two, but that little is in favour of this last; it has, as regards the metropolis, the great benefit of being a substitution for a neighbourhood of close and ill-built streets, badly ventilated and drained, and, in respect of part at least, very disreputably inhabited; it is large enough for the purpose required, and the quantity of ground to be taken may be more or less, according as the details of the building may require a greater or less area; all sanitary considerations are in its favour; it will at once have a good frontage towards the south; and it labours under no greater difficulties in this respect, on the north and other quarters, than the site proposed by Mr. Gem. The intervention of Fleet-street and the Strand, with their traffic entirely disproportionate to their width, must create a difficulty in either plan as to the communication from the Temple. It has been proposed to remedy this by a glazed viaduct over Fleet-street, or a tunnel under it. Neither of these plans is free from inconvenience, it must be admitted; but we apprehend that no plan entirely free could be suggested; and the inconvenience to be submitted to must, after all, be weighed against that which the occupiers of chambers in the Temple labour under at present.

(To be continued).

## CORPORAL PUNISHMENT.

In the course of the last three years corporal punishment has been inflicted in 852 instances in the prisons of England and Wales. Sometimes this punishment is inflicted by order of courts of justice, at the assizes and sessions, chiefly for stealing, but occasionally, and not inappropriately, for other offences—such as assault with intent to commit a rape, and repeated desertion of wife and family, leaving them chargeable to the parish.

At other times the whipping is by order of the visiting justices for prison offences, which, besides insubordination and refusal to work, include such cases as attempts at suicide, breaking up all the cell furniture and setting fire to it, assaulting an officer and threatening to murder him. In most cases the punishment consists in a few lashes administered to a lad under age, but occasionally older men are whipped, and for serious offences the number extends to three or four dozen with the cat. In Dorset county prison it is stated that men of twenty, thirty-three, forty-six, and even one of fifty-three were flogged on the bare breech. These punishments were inflicted privately, but sometimes other prisoners are present for the sake of warning. In some of the cases where the whipping has been ordered by visiting justices the offence is but vaguely described in the return as "idleness," and in one case "sleeping in the open air." In Tiverton gaol all the whippings were before the mayor. The rod seems to be most required in the north. During the three years the visiting justices have applied it to 84 prisoners in the New Bailey, Salford, and to 37 in the city gaol, Manchester; the quarter sessions to 58 in Walton borough gaol; and the petty sessions to 96 in the borough prison of Newcastle-upon-Tyne. Altogether 190 men and lads were flogged in Lancashire, 99 in Northumberland, 78 in Staffordshire, 48 in Cheshire; in Yorkshire but 15; in Middlesex, Surrey, and Kent, together, 131; in Berks, Derbyshire, Dorset, Suffolk, and Worcestershire, only 5 each; in Durham, Gloucestershire, Essex, Notts, and Warwickshire, 4 each; in Beds, Bucks, Hants, and Westmoreland, 2; in Herefordshire and Cambridgeshire, 1; in Cumberland and Monmouthshire, none. The differences are remarkable. In Scotland there have been about 150 juvenile offenders whipped by order of courts of justice; and in Edinburgh and Glasgow the magistrates have power to direct corporal punishment of such persons, "and this is frequently done." In Ireland the courts of assize and quarter sessions ordered 42 lads to be flogged in 1857, 13 in 1858, and 8 in 1859.—*Times*.

**WILLIAM IBBITSON and JOHN IBBITSON**, Yeasdon, Yorkshire, woollen cloth manufacturers, Aug. 13 and Sept. 3 at 11, Leeds: Off. Ass. Young; Sols. Upton & Yewdall, Leeds.—Pet. d. and f. July 27.

**ISAAC SHAW**, Macclesfield, Cheshire, joiner, Aug. 10 and Sept. 20 at 12, Manchester: Off. Ass. Pott; Sols. Parrott & Co., Macclesfield.—Pet. f. May 21.

#### MEETINGS.

**George J. Heald**, Manchester, money scrivener, Aug. 31 at 12, Manchester, last ex.—**Joseph Bailes**, Newcastle-upon-Tyne, leather seller, Aug. 14 at 12, Newcastle-upon-Tyne, last ex.—**Thomas Moore**, Morland, Westmorland, grocer, Aug. 15 at 12, Newcastle-upon-Tyne, aud. ac.—**James Smith**, Fareham, Hampshire, grocer, Aug. 22 at 11, London, div.—**George Ridsdale**, Gower-place, Euston-square, Middlesex, surgeon, Aug. 22 at half-past 11, London, div.—**George T. Lund**, Manchester, commission agent, Aug. 23 at 12, Manchester, div.

#### CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

**John Jeyes**, Northampton, nurseryman, Aug. 22 at 12, London.—**Samuel Langford**, Myddleton-street, Clerkenwell, Middlesex, leather seller, Aug. 28 at 2, London.—**Edward J. Hopkins**, Fishponds, Gloucestershire, draper, Aug. 24 at 11, Bristol.—**Thomas Lightfoot**, Sunderland, Durham, ship-builder, Aug. 24 at 12, Newcastle-upon-Tyne.—**John Morgan**, Manchester, mineral merchant, Aug. 23 at 12, Manchester.—**Wm. G. Sharpe**, Northwich, Cheshire, timber merchant, Aug. 22 at 12, Liverpool.

*To be granted, unless an Appeal be duly entered.*

**John England**, Upper Charlotte-street, Fitzroy-square, Middlesex, photographic apparatus manufacturer.—**William Jackson**, Brewer-street, Somers-town, surgeon, and Queen's-terrace, Maiden-lane, Camden-town, butcher.—**George West**, Wapping, Middlesex, mast and block maker.—**W. Faithfull**, Ironmonger-lane, City, linen agent.—**Mier Benrimo and J. Picciotto**, New Broad-street, City, merchants.—**Jas. Smith**, Fareham, Hampshire, grocer.—**Thos. Voke**, Portsea, Southampton, confectioner.—**John Thos. Russell**, Northampton, draper.—**Wm. P. Goose**, Downham Market, Norfolk, builder.—**Thomas Simmons**, Cheapside, City, and Fairmead Villas, Albert-road, Peckham, Surrey, warehouseman.—**Benjamin Abraham**, Taunton, Somersetshire, jeweller.—**George Thos. Suter**, Weymouth and Melcombe Regis, Dorsetshire, confectioner.—**James Steven**, Newcastle-upon-Tyne, hatter.—**Thomas Mills**, Ashton-under-Lyne, Lancashire, chemist.—**George Taylor Lund**, Manchester, commission agent.—**John Nevens and John H. Wilkinson**, Wolverhampton, Staffordshire, drapers.—**Thomas Brookes**, Birmingham, shoe manufacturer.—**David Widdowson**, Nottingham, lace manufacturer.—**John S. Ferguson**, Nottingham, builder.

#### PETITION ANNULLED.

**Thomas Toynbee**, Southwick-street, Hyde-park, Middlesex, hotel keeper.

#### SCOTCH SEQUESTRATIONS.

**John Miller**, Edinburgh, merchant.—**William Ancrum**, Edinburgh.—**Duncan Leitch**, deceased, Lochgilphead, merchant.—**John A. Smith**, Edinburgh, baker.

**COMMISSIONERS TO ADMINISTER OATHS IN CHANCERY.**—The Lord Chancellor has appointed the following gentlemen to be Commissioners for administering oaths in the High Court of Chancery:—In England: **Thomas Simpson**, of York; **Thomas John Reynolds**, of High Wycombe, Buckinghamshire; and **William Hector Hudson**, of Bradford, Yorkshire. In London: **Charles Maddock**, of No. 4, Regent-terrace, Stepney.

The Right Hon. Sir William Erle, Knt., Lord Chief Justice of her Majesty's Court of Common Pleas at Westminster, has appointed the following gentlemen to be Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women:—**Thomas John Reynolds**, of High Wycombe, Buckinghamshire, in and for the county of Bucks; and **Timothy Crosby**, of Stockton-upon-Tees, Durham, in and for the county of Durham, also in and for the North Riding of the county of York.

**WILLIAM OGILVY PEARSON**, Milton-road, Gravesend, Kent, late of Gresham-street, London, silk agent, Aug. 11 at half-past 11, and Sept. 14 at half-past 12, London: Off. Ass. Whitmore; Sol. Lloyd, 26, Milk-street.—Pet. f. July 30.

**ANTHONY HOLME**, Commercial-wharf, Old Swan-lane, Upper Thames-lane, Upper Thames-street, City, ship-owner, Aug. 18 at 11, and Sept. 18 at half-past 2, London: Off. Ass. Edwards; Sols. Tuke & Valpy, 31, St. Swithin's-lane, London.—Pet. f. July 30.

**BENJAMIN RICHARDS, JOHN RICHARDS, and THOMAS RICHARDS**, West Bromwich, Staffordshire, ironmasters, (trading under the style or firm of Benjamin Richards & Sons), Aug. 10 and 31 at 11, Birmingham: Off. Ass. Kinnear; Sols. Collis & Ure, Birmingham.—Pet. d. July 26.

**SAMUEL NIXON HAYNES**, Leek, Staffordshire, grocer, Aug. 13 and Sept. 10 at 11, Birmingham: Off. Ass. Harris; Sols. Redfern & Sons, Leek; Collis & Ure, Birmingham.—Pet. d. July 23.

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## GAZETTES.—FRIDAY, Aug. 3.

## BANKRUPTS.

**JOSIAH DICKENS WINGRAVE** and **THOMAS WILLIAM WOOD**, St. Albans, Hertfordshire, and Luton, Bedfordshire, straw-plait manufacturers, (trading under the style of J. D. Wingrave & Wood), Aug. 15 at 11, and Sept. 13 at 1, London: Off. Ass. Cannan; Sols. Ashurst & Co., 6, Old Jewry.—Pet. f. July 31.

**EDMUND HAYMAN**, South Molton-street, Grosvenor-square, fruiterer, Aug. 17 and Sept. 13 at 1, London: Off. Ass. Whitmore; Sols. Pocock & Poole, 58, Bartholomew-close.—Pet. f. July 24.

**ELIZA PACKER**, High-street, Aldgate, City, boot maker, Aug. 11 at 11, and Sept. 13 at half-past 11, London: Off. Ass. Whitmore; Sol. Orchard, 5, John-street, Bedford-row.—Pet. f. Aug. 2.

**HUMPHREY STARK**, Reading, Berkshire, boot maker, Aug. 13 at 11, and Sept. 13 at half-past 11, London: Off. Ass. Cannan; Sols. Henderson, Reading; Lovell & Co., Gray's-inn.—Pet. f. Aug. 2.

**THOMAS SCOTT**, Upper Whitcross-street, soap maker, Aug. 11 at 12, and Sept. 13 at 2, London: Off. Ass. Whitmore; Sols. Robinson & Co., 32, Charterhouse-square.—Pet. f. Aug. 2.

**ROBERT WATSON** and **CHARLES WILLIAM WATSON**, Kettering, Northamptonshire, carriers, (trading under the style or firm of C. W. Watson & Co.), Aug. 13 at 1, and Sept. 13 at half-past 12, London: Off. Ass. Cannan; Sols. J. & W. Butler, 191, Tooley-street, Borough.—Pet. f. Aug. 2.

**JULIUS ROBERTS**, Grey-street, Poplar, Middlesex, engineer, Aug. 13 at half-past 1, and Sept. 25 at 1, London: Off. Ass. Lee; Sol. Stubbs, 46, Moorgate-street, London.—Pet. f. July 24.

**JOSIAH ADAMS**, Hanley, Staffordshire, grocer, Aug. 16 and Sept. 7 at 11, Birmingham: Off. Ass. Whitmore; Sols. Evans & Co., and Hodgson & Allen, Birmingham.—Pet. f. July 20.

**SAMUEL NIXON HAYNES**, Leek, Staffordshire, grocer, Aug. 13 and Sept. 10 at 11, Birmingham: Off. Ass. Whitmore, (and not Harris, as previously advertised); Sols. Redfern & Sons, Leek; Collis & Ure, Birmingham.—Pet. d. July 23.

**SAMUEL PEACH**, Sneinton, Nottinghamshire, draper, Aug. 21 and Sept. 11 at half-past 11, Nottingham: Off. Ass. Harris; Sol. Smith, Nottingham.—Pet. d. Aug. 2.

**EDWARD JONES**, Marlborough, Wiltshire, horse dealer, Aug. 13 and Sept. 10 at 11, Bristol: Off. Ass. Miller; Sols. Wittey, Devizes; Abbott & Co., Bristol.—Pet. f. July 24.

**JAMES EVANS PILLINGER**, Tredegar, Monmouthshire, draper, Aug. 13 and Sept. 11 at 11, Bristol: Off. Ass. Acraman; Sols. Brittan & Sons, Bristol; Sole & Co., 68, Aldermanbury, London.—Pet. f. July 21.

**FREDERICK APPELYARD**, Bradford, Yorkshire, tanner, Aug. 20 and Sept. 17 at 11, Leeds: Off. Ass. Hope; Sols. Barret, Bradford; Carless & Cudworth, Leeds.—Pet. d. Aug. 1.

## MEETINGS.

*William Benning*, Fleet-street, City, law bookseller, Aug. 14 at 11, London, ch. ass.—*John Williams*, Cardiff, Glamorganshire, draper, Aug. 16 at 11, Bristol, and. ac.—*Robert Wells*, Bristol, wholesale tea dealer, Sept. 6 at 11, Bristol, fin. div.

## CERTIFICATE.

*To be granted, unless an Appeal be duly entered.*

*Vincent Allen*, Newport, Monmouthshire, draper.

## PETITIONS ANNULLED.

*Job Goodman Sheppard*, Towcester, Northamptonshire, brewer.—*John Bamford*, Stainland, near Halifax, Yorkshire, grocer.

## PARTNERSHIP DISSOLVED.

*George Streater Kempson* and *Carteret John Halford Fletcher*, Abingdon-street, Westminster, Middlesex, attorneys and solicitors.

## SCOTCH SEQUESTRATIONS.

*George Schrader*, Glasgow, leather factor.—*Betsy Smith*, Strathblane, Stirlingshire, merchant.—*David Walker*, Glasgow, builder.—*Alexander Macbetock*, Glasgow, leather merchant.

## TUESDAY, Aug. 7.

## BANKRUPTS.

**FREDERICK CROCKFORD**, St. James's-street, Middlesex, eating-house keeper, Aug. 17 at half-past 11, and Sept. 21 at 1, London: Off. Ass. Whitmore; Sol. Hodgson, 3, Verulam-buildings, Gray's-inn.—Pet. f. Aug. 6.

**EDMUND JOHN BURN** the younger, Brighton, Sussex, stationer, Aug. 15 at 12, and Sept. 21 at 11, London: Off. Ass. Cannan; Sols. Lamb, Brighton; J. & J. H. Linklater & Co., 7, Walbrook, London.—Pet. f. Aug. 3.

**EDWARD GANDELL** and **HENRY JOHN TODD**, Greenwich-street, Upper Thames-street, and Sise-lane, London, merchants, Aug. 15 at half-past 12, and Sept. 21 at 12, London: Off. Ass. Cannan; Sols. Marten & Co., Commercial Sale-rooms, Mincing-lane.—Pet. f. July 27.

**HENRY BEESON**, Bushey Heath, Hertfordshire, builder, Aug. 18 at half-past 12, and Sept. 21 at half-past 11, London: Off. Ass. Cannan; Sols. Pocock & Poole, 58, Bartholomew-close, London.—Pet. f. Aug. 7.

**JAMES VINCENT HOWES**, Chiswell-street, Middlesex, leather seller, Aug. 18 at 12, and Sept. 21 at half-past 1, London: Off. Ass. Whitmore; Sol. Wood, 4, Coleman-street-buildings, Coleman-street.—Pet. f. Aug. 2.

**JOHN HART**, Crown-street, Finsbury, Middlesex, shoe manufacturer, Aug. 18 at half-past 11, and Sept. 21 at 2, London: Off. Ass. Whitmore; Sol. Nicholson, 48, Lime-street.—Pet. f. Aug. 6.

**JOHN LEE STEVENS**, Fish-street-hill, City, dealer in iron, Aug. 20 at half-past 1, and Sept. 24 at 1, London: Off. Ass. Pennell; Sols. Wilkinson & Co., 4, Nicholas-lane, City.—Pet. f. July 13.

**JOHN EBENEZER NEAL**, Leicester, glove manufacturer, Aug. 23 and Sept. 20 at 11, Nottingham: Off. Ass. Harris; Sol. Harby, Leicester.—Pet. f. Aug. 2.

**JOHN PRICE**, Abertillery, Aberystwith, Monmouthshire, draper, Aug. 20 and Sept. 18 at 11, Bristol: Off. Ass. Miller; Sols. Abbott & Co., Bristol.—Pet. f. Aug. 4.

**GEORGE RAWLE**, Porlock, Somersetshire, tanner, Aug. 22 and Sept. 12 at 1, Exeter: Off. Ass. Hirtzel; Sols. Nalder, Bristol; Fryer, Exeter.—Pet. f. Aug. 4.

**LEONARD JOSEPH PHILP**, Plymouth, Devonshire, butcher, Aug. 20 and Sept. 17 at half-past 12, Plymouth: Off. Ass. Hirtzel; Sols. Edmonds & Sons, Plymouth.—Pet. f. July 26.

## MEETINGS.

*Alfred B. Bloom*, Southampton-street, Strand, Middlesex, wine merchant, Aug. 17 at 12, London, last ex.—*Robert Dawson Clegg* and *Frederick Angerstein*, Friday-street, Cheapside, and Fleet-street, City, dealers in atmospheric clocks, Aug. 17 at 12, London, last ex.—*John Henry Cohn*, Richea-court, Lime-street, City, East India merchant, Aug. 17 at 1, London, last ex.—*Wm. Monk*, Padiham, Lancashire, manufacturer, Aug. 31 at 2, Manchester, last ex.—*Wm. H. Brook*, Peerless-place, City-road, Middlesex, cheesemonger, Aug. 17 at 1, London, and. ac.—*George Drake*, Everaholt-street, Camden-town, Middlesex, jeweller, Aug. 17 at 11, London, and. ac.—*William Black*, Prospect-house, Charles-street, St. James's-road, Holloway, Middlesex, builder, Aug. 17 at half-past 11, London, and. ac.—*Peter Williamson* the younger, Salford, Lancashire, grocer, Aug. 22 at 12, Manchester, and. ac.—*Saml. Clegg*, Rochdale, Lancashire, blacksmith, Aug. 28 at 12, Manchester, and. ac.—*Richard Mulman* and *Henry Nantes*, Warrford-court, Throgmorton-street, City, merchants, Aug. 20 at 1, London, div.—*Robert Proctor*, Liverpool, corn broker, Aug. 30 at 11, Liverpool, div.

## CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*James Wm. Ferguson*, Paternoster-row, City, and New

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THE JURIST.

LONDON, AUGUST 11, 1880.

THE probable produce of this session, so far as the amendment of the law is concerned, is likely to be so infinitesimally small, that we may well be induced to speculate upon the causes which have led to such a result. However, much as we may regret some things which Parliament has failed to do, we may at the same time express our gratitude to it for some measures which it has effectually extinguished. These we will not attempt to particularise; they will be obvious to every person who has watched the course, or, more accurately speaking, the attempted course, of legislation during this session.

Political reform in the representation of the people has totally failed; but its success has been at least commensurate with its merits, and the earnestness by which it was pursued by the party who were brought into power to carry it into effect.

Alterations have doubtless been effected in our laws relating to finance; but the more they have been reconsidered by the people and the press, the less appears to be the favour in which they are held, and the greater the regret that Parliament, overpowered or misled by the specious eloquence of our financial orator, should have been induced to sanction "a gigantic innovation," the effects of which, calculated for the benefit of a small, though energetic, portion of our trading community, whose political support appears to be a marketable article, will fall with heavy pressure upon the industrial pursuits of other classes, and upon the nation at large.

One of the most interesting episodes in the session has been the rejection of the repeal of the paper duty by the House of Lords. It gave rise to most interest-

ing debates in Parliament upon a most important question of constitutional law, viz. how far the House of Lords could deal with money bills. On this, as on many other questions of the same kind, our own laws are not settled with that logical precision to be found in the codes of other countries, where political freedom does not exist in an equal degree; but we, in order to solve such questions, must search for and refer to precedents, scattered during centuries over the ponderous tomes of our parliamentary annals. These, in our opinion, far exceed in importance and utility the more accurate articles and pretentious definitions of foreign codes. Our parliamentary precedents, however, require to be used with considerable care. Our constitution has been of slow growth, interrupted during some periods by irregularities, which should be avoided as landmarks, rather than followed as precedents. On the whole, the speech of our Premier, notwithstanding the reply of his refractory subordinate, the Chancellor of the Exchequer, contains a full exposition of our constitutional law upon this subject; and whatever may be the meaning or value of the resolutions of the House of Commons with regard to the conduct of the House of Lords in refusing to pass the bill effecting the repeal of the paper duties, we may, perhaps, consider it to be now settled, that although the House of Lords can neither originate or alter a money bill, they can refuse to pass one originating (as all such bills must originate) in the House of Commons, more especially if, when they do so, they disagree with the proposed measure more as a matter of policy than as a question of finance. Some persons may affect to believe that there is great danger in allowing such a power to the House of Peers; but the fact that it has been hitherto so rarely exercised is a pretty good guarantee that it will not be frequently used in future, and never except upon such occasions as



the present, when the feelings of the people go with the votes of the Lords, and their veto is exercised, not for the purpose of disappointing the just expectations of the nation, but of correcting the mistakes of the rash and hasty legislation of the Commons—regretted, perhaps, by themselves, and disapproved of by the people whose interests and wishes they are sent to represent.

The fate of the measures for cheapening the transfer of land, whether by registration of titles or otherwise, have during this session met with the fate they deserve. They have appeared among the bills to be submitted to Parliament, but they have not served even as pegs upon which any member, ambitious of being thought a law reformer, could hang a plausible oration, which might meet with the temporary praise of those ignorant of the subject, and unsuspecting of the fallacies by which it was supported, but which would be open to immediate detection and exposure on the part of those whose knowledge of the laws of real property, and the true mode by which they may be improved, is not warped by the desire of gaining political notoriety, the pleasures of place.

The Bankruptcy Bill, though gallantly fought by the Attorney-General, came to an untimely end, partly through its own defects, (which, however, admitted of amendment), but above all by the delays interposed by the fruitless debates on the unfortunate Reform Bill, and the still more unfortunate measures of finance. All persons, we believe, who know anything about the working of the present Courts of Bankruptcy, are well aware how great are their defects, both administrative and judicial. These the Attorney-General's bill would, to a great extent, have remedied. Most persons, moreover, would have agreed to the principle of the bill, by which matters of insolvency and bankruptcy are brought under the jurisdiction of the same Court; but it was by a most unfortunate mistake that the test of insolvency in the case of non-traders was not separated by a broad line of distinction from that of traders. The two cases, in fact, admit of no comparison, and ought not, in legislating for them, to be put within the same category. Next session, should political power remain in the same hands, we hope the Attorney-General will again bring before Parliament the important subject of bankruptcy, and in the intervening period he will have sufficient time to cure the defects of the late bill. He has with him the best wishes of the mercantile part of the community, the persons most deeply interested in his success; and his colleagues, we may venture to express a wish, will not again keep in the background, or smother by undue delays, a measure so much and so long wanted.

When, or even before, another session comes, we may also venture to hope that the present Attorney-General will take some decisive steps with regard to the consolidation or expurgation of the statute-book. We are in favour of expurgation, not because we think it altogether the best mode of procedure, but because we think it the most feasible, and, indeed, necessarily a preliminary step to consolidation. Expurgation, moreover, might be proceeded with without the interposition of Parliament; and if it were undertaken with real earnestness, and by competent and real workers, they

might at no very distant period lay before the country, in a few volumes, the whole of the real living statute law, omitting those acts of the Legislature which are either repealed, or are of a private or merely local character, and which, therefore, ought to be kept apart from those acts having a general and public operation. Another great work which the Attorney-General might, and we hope will, undertake, is a digest of the decisions of all our superior Courts. Spreading, as they do, over so many centuries, and filling so many hundred of volumes, and still increasing, they call for an official digest quite as much as the Roman law before the time of Justinian. These works are sufficient to satisfy the ambition of any man. The Attorney-General has long and ably expressed his wish to undertake them, and the modes by which they may be accomplished. The public expect much from him, and we believe he will not disappoint that expectation.

We have, however, already alluded to the delay of Parliament in passing really good measures. We think that this might be in a great measure cured if Parliament would hand over much of its private business either to Courts of law, or local and county assemblies. Some of the business transacted before committees, which waste so much of the time of the members, is of a character almost ludicrously petty, and quite unworthy the attention of the Imperial Legislature. The working of the Settled Estates Acts and the Divorce Court shews how advantageously some of the private business may be delegated to our Courts, and we believe that much more might be quite as safely and beneficially given to properly constituted local assemblies. If this were done, many of the delays and shortcomings of Parliament in legislation would, we believe, be cured, especially if the speeches of those members whose eloquence exceeds their wisdom could, by any well-regulated rules, be restrained within moderate limits.

## Correspondence.

### REGISTRY OF JUDGMENTS.

THE LAW OF PROPERTY AMENDMENT ACT, 23 & 24 VICT. c. 38, (JULY 23, 1860).

TO THE EDITOR OF "THE JURIST."

SIR,—The first five clauses of the above act relate to judgments as they affect real property; and as there exists a general desire in the Profession to ascertain how the enactment *will work in practice*, I venture to offer a few suggestions that I trust may be of some little service.

To understand the subject, it is necessary to refer to the 1 & 2 Vict. c. 110, s. 13, which makes a judgment a charge on real property, both equitable and legal; and the 19th section provides, that a judgment shall not affect a purchaser, mortgagee, or creditor, as to lands, until registered. The 2 Vict. c. 11, s. 5, provides that judgments, although duly registered, shall not affect purchasers *without notice* more extensively than they would have done before the 1 & 2 Vict. c. 110; and leaseholds under the old law were not affected until a writ of execution was in the hands of the sheriff.

The Law of Property Act, (23rd July, 1860), sect. 1, recites, that it is advisable to place freehold and copyhold estates on the same footing as leaseholds, and enacts that no judgment shall affect land, of *whatever tenure*, as to a purchaser or mortgagee, notwithstanding notice, until a writ of execution shall have been

issued and registered, and such execution must be put in force within three calendar months from the time it was registered. Sect. 2 enacts, that, for the purpose of registration, a memorandum shall be left with the senior Master of the Court of Common Pleas, who is to register the particulars by the name of the person in whose behalf the judgment was registered.

These provisions are extended to the palatine courts, but not to Ireland.

Sect. 4 further provides that no judgment shall have any preference against heirs, executors, or administrators, in the administration of their ancestors' testators', or intestates' estates, unless at the death of the testator or intestate five years shall not have elapsed from the date of the registry or re-registry thereof.

Sect. 5 explains that the term "judgment" shall be taken to include registered decrees, orders of Courts of Bankruptcy, and other orders having the operation of a judgment.

It would, therefore, appear, that in future, to affect a purchaser or mortgagee of lands that can be taken in legal execution, it will be necessary to issue a writ of execution, and register such writ, which will remain a charge upon such land for three months. Whether at the end of three months such writ may be registered again is not quite clear, but the words of the act, that it is intended to protect purchasers "against delay in the execution of the writ," would seem to negative this suggestion.

But since the 1st section of this act refers only to purchasers and mortgagees, and not to creditors, a judgment registered under the 1 & 2 Vict. c. 110, on which no writ of execution has been issued, will still give the judgment creditor preference over other creditors as to lands. And as sect. 13 of the 1 & 2 Vict. c. 110, made a judgment a charge upon the debtor's equitable interest, as well as his legal interest, in lands, a registered judgment will still affect such interest. And now, by sect. 4 of the new act, a judgment must be registered in order to give it a preference against heirs, executors, and administrators, in the administration of their ancestors', testators', and intestates' estates.

The necessity, therefore, for registering the judgment is in no case removed, as the register of the writ of execution is to be connected with the register of the judgment, and the writ of execution to be indexed by the name of the person in whose behalf the judgment was registered.

The usual search also for judgments in the Common Pleas and the local registers must be continued; and should any judgment be discovered, the particulars must be taken, and a further search made for executions in the name of the person in whose behalf the judgment was registered. A search for execution only, in the name of the vendor, by a purchaser, would have been sufficient in many cases had it been provided that the execution should be registered, like the judgment, by the name of the person whose estate is intended to be affected. It is not easy to see why the execution should not have been so registered. But such not being the case, the search for judgments, as heretofore, must be continued, and a reference made to the execution-book in every case of a registered judgment being found. A purchaser of leasehold property should now in all cases search up to the last moment before the payment of the purchase money, as this act will enable him to ascertain whether he is affected by a fieri facias or other writ of execution.

It will be observed that the act is not retrospective. Judgments, therefore, entered up before the 23rd July, 1860, are still binding on a purchaser or mortgagee, although no execution be issued; and as many of these judgments will doubtless be re-registered, they will be binding upon future purchasers and mortgagees for many years to come. It would have been unjust to

prior creditors to have made the provision act retrospectively, as judgments have been numerous taken, instead of mortgages, for economical reasons, and the total amount thus secured by judgments reaches many millions of money; indeed, it would have been but fair had the operation of this provision been deferred to the 1st January next, that the public might have had due notice, and a reasonable opportunity of becoming familiar with the enactment.

I am, Sir, your obedient servant,

JAMES PARK,  
Registrar's Chief Clerk, Court of  
Common Pleas.

Serjeants'-inn, Aug. 3, 1860.

## COUNTY COURT JUDGES.

We find the following in *The Solicitors' Journal*:—"Lord Brougham has taken up Mr. Roebuck's notion about the promotion of county court judges to seats on the Bench at Westminster Hall; and it is by no means unlikely that the topic may obtain some degree of popularity among professed law reformers. *The Spectator* has already written one of its characteristic articles in favour of the plan. The principal arguments, however, of the writer in that journal, as well as of Lord Brougham and Mr. Roebuck, are simple enough. Judges, they say, have hitherto been generally selected from among the leading advocates at the Bar; but judicial qualifications are very different from those of an advocate; and therefore the probability is, that a brilliant and successful advocate will not turn out a sound or useful judge. Thus they argue that the proposed change must be for the advantage of Westminster Hall. Their second argument, however, is of a different kind. 'The occasional selection,' says *The Spectator*, 'of a county court judge, a recorder, or even perhaps of a police magistrate, would cause all these minor appointments to be sought by the very best men, and would create a laudable ambition for promotion at the Bar and on the Bench.' In our present cursory allusion to the subject we shall only express a doubt—with all respect to the noble lord and the member of Parliament—whether, under the proposed system, we should, as a rule, surpass, in point of learning and judicial fitness, the judges who have hitherto presided in the superior courts of common law. Admitting the syllogism about the unfitness of advocates for judgeships to be unimpeachable, both in its premises and conclusion, there is no occasion at present, except such as there would be hereafter, to elevate Nial Prius advocates to the judicial bench. As to the laudable ambition for promotion which it is supposed is now wanting, but would be created by such occasional selection as has been mentioned, we are disposed to think that there is at present quite enough of 'ambition for promotion' both on the Bench and at the Bar; and, moreover, we are very much inclined to question whether the ambition among judges to obtain judicial promotion is in itself a quality altogether desirable, or that may not exist in too high a degree either for the dignity of the Bench or the advantage of the public. Until, therefore, some new reasons can be adduced in favour of the proposed change, it will not count us among the number of its adherents."

There certainly is much weight in these observations; still the suggestion of Mr. Roebuck is worthy of consideration both by the Legislature and Executive; and, indeed, a searching inquiry into the whole county court system of judicial appointment would not be amiss. The number of causes tried by those courts is now very great, the office of county court judge is daily rising in importance, and society at large has a deep interest in the qualifications of the persons by whom it is filled.

## REPORT OF THE COMMISSIONERS

APPOINTED TO INQUIRE INTO THE EXPEDIENCY OF BRINGING THE COURTS TOGETHER INTO ONE PLACE OR NEIGHBOURHOOD.

(Continued from p. 294.)

21. It remains for us to consider the further question referred to us by your Majesty, viz. whether there exist, or may be supplied, pecuniary means for providing a site or sites for the proposed courts and offices, and for erecting suitable buildings thereon.

22. We have humbly to report to your Majesty that there do exist funds, which, if they can with propriety be made available for the purpose, (as, for the reasons hereafter stated, we think they can), will be found amply sufficient to carry these important objects into complete effect, without imposing any—or, if any, only a moderate and temporary—burthen on the finances of the State.

23. The funds to which we allude may be classed under three heads, and may be shortly described as follows:—

(1). A sum of 1,291,629*l.* 5*s.* 6*d.* stock, (which will be hereafter referred to as Fund B.), constituting a portion, though a distinct and separate portion, of what is called the "Suits' Fund" of the Court of Chancery.

(2). A sum of 201,028*l.* 2*s.* 3*d.* stock, (which will be hereafter referred to as Fund D.), arising from the accumulation of surplus fees received from suitors in Chancery, and forming part of the fund known as the "Suits' Fee Fund."

(3). A sum of 88,254*l.* 5*s.* cash, standing to the credit of the Paymaster-General at the Bank of England, (which will hereafter be referred to as Fund E.), arising from the surplus fees received by the officers of the superior courts of common law.

24. We will proceed to explain the nature of these several funds.

And, first, as to the Suits' Fund.

It is the practice of the Court of Chancery, in the exercise of its ordinary jurisdiction, upon the application of any party to a suit, to order the property which is the subject of dispute to be brought into court, and there retained until the rights of the litigant parties can be ascertained and determined. When money is thus brought into court, the suitors interested therein may apply to have it laid out in the purchase of stock, and upon such application—or, in some cases, in the exercise of its own discretion—the court directs the money to be so invested. The stock purchased on every such investment is placed to the account of the cause or matter to the credit of which the money invested was standing, and the risk of the investment is borne by the parties to whom the fund may ultimately be adjudged to belong, the intermediate interest being from time to time accumulated, or otherwise disposed of, for the benefit of the parties interested, as the court may direct. At the date of the last return (1st October, 1859) the securities thus placed under the control of the court amounted to no less a sum than 47,040,885*l.* 7*s.* 8*d.*, the greater portion of which was invested in 3*l.* per Cent. Consols; and the whole of this large sum, income as well as capital, is the absolute and exclusive property of the particular suitors by whom the original payments into court were made, or to whom, on the termination of each cause or proceeding, it may be judicially decreed to belong. With this fund, it must be clearly understood, we do not in any way seek to interfere.

25. But it frequently happens that money is brought into court, and the parties interested therein—either anticipating a speedy termination of their litigation, and not choosing to incur the risk of a fall in the funds, or for some other reason, or, it may be, from mere

forgetfulness—decline or neglect to apply to the court to have the same laid out and invested. In all such cases the money, as between the suitors and the court, remains in the hands of the court as so much cash, and, at the termination of the litigation, the exact sum so brought in is paid out to the successful party, without increase or diminution.

26. Under the provisions, however, of various acts of Parliament, to which we shall presently advert, the Lord Chancellor is empowered from time to time to invest in stock, not the particular sums brought in by particular suitors, but such portion of the floating balance of suitors' cash lying unemployable in the Bank of England as exceeds what may be required to answer current demands; in the same manner that a banker employs the surplus balances, not of each particular customer, but of his customers generally, in discounting bills, or in other modes of investment. And just as the profit arising from such investments belongs to the banker, and not to his customer, who can claim no more than the precise sum of cash which he paid in, so, in regard to the investments above referred to, the successful suitor receives out of court exactly what was originally brought in, and is not entitled to participate in any profit which the court may have made by the employment of a portion of the general cash balances belonging to the entire body of suitors.

27. It will thus be seen that there are, in effect, two distinct funds under the control of the Court of Chancery belonging to the suitors of the court—one consisting of stock, the whole of which, income as well as capital, is the exclusive property of the suitors; the other consisting partly of stock and partly of cash, (but the whole of which, as between the suitors and the court, is treated as cash), the capital of which represents the money from time to time paid in by the suitors, and, to the extent of the money so paid in, belongs exclusively to them, but to the income or profit arising from the employment whereof such suitors can make no claim.

28. It is to the latter of these two funds, which is known as the Suits' Fund, and it is to this alone, that the following observations are intended to apply.

29. The history of this fund, its origin, growth, and then condition, were stated with great accuracy, and in ample detail, by Mr. Parkinson, the then chief clerk of the Accountant-General of the Court of Chancery, in the evidence given by him before the Select Committee of the House of Commons on Fees in Courts of Law and Equity, which will be found in the First Report of that Committee, ordered by the House to be printed on the 8th March, 1848. The substance of Mr. Parkinson's statements has been repeated by Mr. P. W. Rogers, one of the present registrars of the Court of Chancery, in the valuable evidence which he has given before us, and which will be found, with some explanatory documents, in the minutes of evidence and the Appendix annexed to this our Report. Its general purport and effect may be stated as follows:—

30. Prior to the year 1725 it was the practice to deposit all monies and effects of the suitors, which were ordered to be brought into court, with the masters or usher of the court, by whom the monies deposited were employed for their own personal benefit, the advantage arising from such employment constituting, in fact, a portion of the profits of their respective offices. About that period, however, which was that of the South Sea bubble, it was discovered that several of the Masters were defaulters, and were unable to make good to the suitors the monies which had been so deposited with them. These defaults became the subject of parliamentary inquiry and interference, and measures were promptly taken, both to indemnify the suitors whose property had been thus misappropriated, and to protect the public against the recurrence of similar abuses.

With this view, his Majesty King George I was pleased, upon the address of the House of Commons, to grant the fine of 30,000*l.*, which had been then recently imposed on Lord Chancellor Macclesfield, towards making up the deficiency in the Masters' accounts, and two acts of the Legislature were passed, the general effect of which we will proceed to state.

31. By the first of these acts, the 12 Geo. 1, c. 32, intituled "An Act for better securing the Monies and Effects of the Suitors of the Court of Chancery," &c., certain orders of the Lords Commissioners of the Great Seal and of the Lord Chancellor, which had been recently made, with reference to the deposit and custody of the property of the suitors, and the mode of keeping the accounts thereof, were confirmed, and directed to be thenceforward observed and kept, subject to such variation as the Court of Chancery should from time to time, and according to the exigency of circumstances, judge reasonable or proper. The act then proceeded to direct, that an officer should be appointed by the court, to be called the Accountant-General of the Court of Chancery, who should, as to the several regulations and directions prescribed in the said orders, stand in the place of the masters and usher of the court, and should do and perform all such matters and things relating to the delivery of the suitors' money and effects into, and the taking them out of, the Bank of England, and the keeping the accounts thereof, and all other matters relating thereto, as were by the said orders directed to be done by the said masters and usher. All securities then held by the masters and usher, in trust for the suitors of the court, were directed by the act to be transferred to the Accountant-General, and all securities to be thereafter taken were also to be taken in his name.

32. By the second of these acts, the 12 Geo. 1, c. 33, intituled "An Act for Relief of the Suitors of the High Court of Chancery," after reciting that certain Masters of the court had been deficient in answering the money and effects of the suitors ordered by the court to be deposited in their hands; that after realising and bringing to account the private estates and effects of the deficient Masters, and applying Lord Macclesfield's fine of 30,000*l.*, given by his Majesty on the address of the House of Commons, towards the relief of the said suitors, with the interest thereon, there would be a computed deficiency of 51,851*l.* 19*s.* 11*d.*, besides several other claims then in course of examination; and that the Commons of Great Britain were desirous to relieve the distressed suitors of the court, and for that purpose, to make a sufficient provision for the payment of all their just demands; it was enacted, that from and after the 2nd August, 1726, and thenceforward during the term of sixteen years, there should be levied and raised throughout England and Wales, and the town of Berwick-upon-Tweed, over and above all then existing rates and duties, the several and respective rates, duties, and charges therein specified, upon all writs and other processes issuing out of any of the courts at Westminster, Courts of Great Sessions in Wales, courts in counties palatine, or in any other courts whatsoever holding plea where the debt or damage amounted to 40*s.* or upwards, and upon all entries of action in the Mayor's and Sheriff's Courts of London, and in courts in all corporations, and upon all citations or monitions made in any ecclesiastical court. The officers concerned in the collection of these duties were to keep separate and distinct accounts thereof, and to pay the same weekly into the Bank of England, where books were to be kept, in which all monies received for such duties were to be entered, "apart and distinct from all other monies paid or payable on account of the suitors," and which monies, when so received, were to be and be considered "as part of the general and common cash of the Court of Chancery,"

and, as such, to be issued and applied for the payment of the respective demands of the suitors thereof, as the court should direct. The court was also empowered to borrow money, to the extent of 60,000*l.*, on the credit of these duties, in case it should judge such a step to be necessary for the payment of the demands of the suitors, the money borrowed being paid into the Bank, and made part of the general and common cash of the court, for the benefit of the said suitors.

33. The act further provided, that in order that no suitor might be delayed in payment of any money due to him, but that every one might receive his full demand, whensoever he should apply for the same, in the most easy and expeditious way, all the cash then, or which might thereafter be, deposited in the Bank on account of the suitors, and all monies arising from the duties thereby imposed, or borrowed thereon, and paid into the Bank, should be, and be accounted and taken to be, one common and general cash, and should be promiscuously issued, when and as the court should direct, for answering and paying the debts and demands of any of the said suitors.

34. And further the act provided, that when and so soon as the deficiency of the suitors' money intended to be answered and paid out of the fund thereby established, and also all monies lent on the credit of the act, should have been fully paid and satisfied, the surplus monies which should have been raised out of the said duties should from thenceforth be reserved for the benefit of the public, and should be applied to such uses only as should be thereafter decided by Parliament.

35. In the year 1736 another act was passed, (which, however, is not referred to in Mr. Parkinson's statement), the 9 Geo. 2, c. 32, intituled "An Act for continuing, for the Purposes therein mentioned, the additional Duties upon Stamped Vellum, Parchment, and Paper laid by an Act passed in the twelfth Year of his late Majesty King George I." From the recitals in this act, it appears that the deficiency in the Masters' offices, which had been computed at the sum of 51,851*l.* 19*s.* 11*d.*, had, in fact, amounted to the sum of 103,635*l.* 6*s.* 2*d.*; that Lord Macclesfield's fine, with the interest thereon, had produced the sum of 39,834*l.* 16*s.* 7*d.*; and that there had been raised and collected, by means of the duties imposed by the before-mentioned act, from the 2nd August, 1726, to the 3rd March, 1735, the sum of 38,980*l.* 19*s.* 9*d.*, making, with the said sum of 39,834*l.* 16*s.* 7*d.*, the sum of 78,743*l.* 16*s.* 4*d.*, which, being deducted from the before-mentioned sum of 103,635*l.* 6*s.* 2*d.*, reduced the deficiency standing out in the offices of the said Masters on the 8th March, 1735, to the sum of 24,891*l.* 9*s.* 10*d.* The act further recited that a sum of 11,485*l.* 4*s.* 5*d.* had been found due from Master Bennett, another of the Masters of the court, to the assignees of a bankrupt estate, which debt he had no means of satisfying, and in respect of which the creditors of the bankrupt might reasonably, and within the spirit and meaning of the former act, be entitled to such and the like relief as was thereby given to the other suitors of the court. It also recited that the duties granted by the said former act would not, as it was computed, be sufficient to raise both the outstanding deficiency of 24,891*l.* 9*s.* 10*d.*, before referred to, and also the said additional sum of 11,485*l.* 4*s.* 5*d.*, unless such duties were further continued, and the time for raising the same enlarged. It was accordingly by the said act enacted, that the sum of 11,485*l.* 4*s.* 5*d.* should be raised by continuing the said duties for a further term of four years, to be computed from the 2nd August, 1742; that out of the before-mentioned sum of 38,980*l.* 19*s.* 9*d.*, which had already arisen from the said duties, there should be placed to the account of the said bankrupt estate, in the books of the Accountant-General of the Court of Chancery and of the Bank, the sum of 11,485*l.*

4s. 5d., and that the same should be issued and paid, out of the general and common cash of the suitors in the Bank, as the court should direct, in satisfaction of the before-mentioned debt. The act also contained a provision similar to that contained in the former act, that when and so soon as the deficiency of the suitors' money, and all money, if any, borrowed on the credit of the duties, should have been fully satisfied, all surplus monies which should thenceforth have been raised by means of the said duties should be reserved for the benefit of the public, and be applied as Parliament might thereafter direct.

36. All these accounts were finally made up, balanced, and closed, by an order of the Lord Chancellor, dated the 19th January, 1749, of which a copy will be found in the Appendix. From this order it appears that the separate deficiencies of the four defaulting Masters had been ultimately found to amount to the aggregate sum of 100,871l. 6s. 3d.; that Lord Macclesfield's fine, for which a separate account had been opened in the books of the court, with the interest thereon, had produced the sum of 51,360l. 8s. 11d.; and that the rates and duties imposed by the before-mentioned acts, for which a like separate account had been opened and kept, had produced the sum of 63,081l. 9s., (over and above the sum of 11,485l. 4s. 5d. which, in pursuance of the last of those acts, had been applied in discharge of Master Bennett's debts). These two sums, which amounted together to 114,441l. 17s. 11d., were sufficient to satisfy the Masters' deficiencies, and to leave a surplus of 13,570l. 11s. 8d. The order, therefore, directed that the whole of Lord Macclesfield's fine and interest, and the sum of 49,510l. 17s. 4d., part of the produce of the rates and duties, should be carried over to the Masters' General Deficiency Account, which was thereby balanced, and that the several accounts in question, so far as related to the deficiencies of the Masters, should be closed.

37. The surplus of 13,570l. 11s. 8d., which thus remained, was disposed of by an act of the 23 Geo. 2, c. 25, intituled "An Act for making good a Deficiency upon the Revenue of the Office Keeper or Clerk of the Hanaper, and for preventing any future Deficiency therein to answer the Public Services provided for out of the same; and for augmenting the Income of the Master or Keeper of the Rolls," (which is also left unnoticed in Mr. Parkinson's statement). After reciting the acts of the 12 Geo. 1 and 9 Geo. 2, by which the rates and duties were imposed and continued, and that, after satisfying the deficiencies of the Masters, the above-mentioned surplus of 13,698l. 1s. 11d. remained unapplied, and subject to the disposition of Parliament, the act proceeds to state the sources from which the income or revenue of the ancient office of Keeper or Clerk of the Hanaper in Chancery was derived; that such income was in its nature uncertain and contingent, and had been for several years insufficient to provide the various fees, salaries, and disbursements which were payable thereout; and that there was then due and in arrear to the persons entitled thereto the sum of 10,590l. 12s. 11d., which, as the ancient revenue of the office would in all probability continue to be deficient, would be lost, while the services to which the same were for the future to be applied would remain unprovided for. The act further recites that the revenue belonging to the office of Master of the Rolls was not adequate to the trouble, dignity, and importance of the office; and it then proceeds to enact, that out of the before-mentioned unapplied surplus of 13,698l. 1s. 11d., then remaining in the Bank of England, 10,590l. 12s. 11d. should be paid to the creditors of the Hanaper Office as the Court of Chancery should direct, and that the residue should be placed out at interest in Government securities, the dividends whereof should be paid to the Clerk of the Hanaper; that the rates and duties imposed

by the former acts, which had expired in the month of August, 1746, should be revived as from the 24th June, 1750, and made perpetual; and that from the produce thereof 3000l. should be paid yearly to the Clerk of the Hanaper as part of the ordinary income and revenue of his office, out of which he was to pay to the Master of the Rolls for the time being the yearly sum of 1200l.

38. We have entered thus minutely into the provisions of these several statutes because they appear to us to have an important bearing on the main question submitted for our consideration. We shall proceed to trace the subsequent history of the funds now in question, referring for the details to the statement of Mr. Parkinson, before mentioned, of which an ample summary is given in the evidence of Mr. Rogers, annexed to this our Report.

39. It was found that the fees authorised to be taken in the office of the Accountant-General were disproportionate and unequal, and in small transactions a great burthen to the suitors. It was also found, that as all monies paid into court by the suitors, as well as those arising from the rates and duties before mentioned, were required to be accounted and taken as one common and general fund, and to be promiscuously used to answer the demands of the suitors, there had always been a large accumulation of suitors' cash lying dead and unemployed in the Bank of England. In the year 1739, therefore, an act was passed, (the 12 Geo. 2, c. 24), by which the Court of Chancery was authorised to lay out in Government securities a sum not exceeding 35,000l., part of the then unemployed cash balance, and out of the interest arising from the investment certain fixed salaries were to be paid to the Accountant-General and his clerks, in lieu of fees, the surplus interest being treated as part of the suitors' common and general cash.

40. Under the authority given by this act, and in pursuance of an order of the Court of Chancery of the 2nd July, 1739, (a copy of which will be found in the Appendix), the sum of 34,939l. 1s. 6d. cash was invested in the purchase of 36,850l. Exchequer Tallies, which in 1752 were exchanged for the same amount of Bank 3l. per Cent. Annuities. And this was, in fact, the foundation and commencement of that particular fund which bears the name of, and is known as, the "Suitors' Fund." To this we shall hereafter have occasion to refer as Fund A.

In 1749 the deficiency of the Masters was, as we have shewn, declared by the court to have been fully made up and satisfied, and on balancing the Accountant-General's books in October, 1749, and comparing the same with the books kept at the Bank, the amount of cash in court belonging to the suitors was found to be 196,545l. 4s. 11d., which was represented as follows:—

Balance of cash then in the Bank of England	£161,806	9	6
Invested in Exchequer Tallies, (under the			
12 Geo. 2, c. 24), as above mentioned ..	34,939	1	6
	£196,545	4	11

41. As the business of the Court of Chancery increased with the expanding commerce and growing wealth of the country, so the balances of unemployed cash belonging to the suitors continued to accumulate in the Bank, and repeated investments were from time to time made in respect thereof. In each case the investment was specifically authorised by a separate act of the Legislature, and all the acts passed for the purpose are enumerated in the statements of Mr. Parkinson and Mr. Rogers, to which we have before referred. But in the year 1838 an act was passed, (the 1 & 2 Vict. c. 54), by which the Lord Chancellor was invested with a general authority from time to time to order the placing out on Government securities of such portions of

the suitors' cash, lying dead and unemployed in the Bank, as he might judge to be expedient. Large investments have accordingly been made in pursuance of the said act, and in addition thereto, the act of the 5 Vict. c. 6, by which the equity jurisdiction of the Court of Exchequer was abolished, directed that all the funds which had been purchased out of the general cash belonging to the suitors of that court should be transferred to the Accountant-General of the Court of Chancery, and should be added to, and consolidated with, the funds held by him under the provisions of the various acts above referred to.

42. The general result of these operations has been, that the invested fund purchased with suitors' cash, which we have called Fund A., and which commenced in the year 1739 with the sum of 36,850*l.* stock, had, on the 1st October, 1859, reached the large amount of 2,613,360*l.* 1*s.* 3*d.* stock, purchased with the sum of 2,264,744*l.* 1*s.* 10*d.* cash. The dates and particulars of the several investments, by means of which this aggregate sum was made up, will be found in the accounts accompanying the valuable evidence of Mr. Parkinson, jun., given before us, from which it also appears, that on the 1st October, 1859, the amount of cash in court belonging to the suitors was 2,962,991*l.* 3*s.* 9*d.*, which was made up as follows:—

Balance of cash then in the Bank of England	£668,947	1	11
Invested in stock as above .. .. .	2,264,744	1	10
	£2,962,991	3	9

43. Such is the history of Fund A., and with this, also, it must be clearly understood that we do not in any way propose to interfere.

44. We shall now proceed to explain the origin, progress, and present condition of that part of the Sutors' Fund to which we have already referred, and shall hereafter have frequent occasion to refer, as Fund B.

45. It will have been seen, that by the act 12 Geo. 2, c. 24, which we have treated as the commencement of the Sutors' Fund, the interest of the sum thereby directed to be invested was to be applied in payment of certain salaries to the Accountant-General and his clerks, and the residue of such interest was to constitute part of the common and general cash of the suitors. Similar provisions were contained in succeeding acts; that is to say, the income arising from the investments thereby directed to be made was to be applied to the augmentation of the salaries of the Masters and other existing officers of the court, or the payment of the salaries to new or additional officers thereby appointed, and the surplus income was to be added to the suitors' general cash.

46. In the year 1768, however, an act was passed, (the 9 Geo. 3, c. 19), by which it was directed, that as the interest of these various investments was more than sufficient to pay the salaries charged thereon, the surplus interest which had arisen and should thereafter arise therefrom, together with the interest of the securities to be purchased with such surplus interest, should from time to time be placed out on Government securities, the interest or annual produce of which should be carried, part thereof, to a distinct and separate surplus interest account, to be designated as therein mentioned, and the remainder to another like separate and distinct account, but with a different designation. For what purpose this separation of accounts was made is not very obvious, nor is it material to inquire, since by a subsequent act the two accounts were directed to be blended into one. It is sufficient to say that the directions of the act were carried into effect, and the surplus interest therein referred to from time to time duly invested in Government securities. And as we have described the act of the 12 Geo. 2, c. 24, as the commencement of Fund A., so this act of the 9 Geo. 3,

c. 19, may be considered as the foundation of Fund B., which has been properly termed the "Profit or Accumulation Fund."

47. In the year 1774 an act was passed, (the 14 Geo. 3, c. 43), from the recitals in which it appears that the securities purchased with such surplus interest, and then standing to the credit of the respective accounts above referred to, (forming the Profit or Accumulation Fund), amounted together to the sum of 10,200*l.* Bank 3*l.* per Cents., which securities the act declared to be "unappropriated." This sum, together with the interest to arise from a sum of 50,000*l.* suitors' cash thereby directed to be invested on account of Fund A., and also the surplus interest thereafter to arise from any of the preceding investments made on account of the same fund, the act directed to be applied, under the orders of the Court of Chancery, towards rebuilding the Six Clerks Office, and purchasing ground and houses for the purpose, and erecting suitable offices for the Registrar and Accountant-General of the court. When the purposes of the act had been accomplished, the appropriation of funds thereby directed was to cease, and the surplus interest thenceforth to arise from the before-mentioned securities was to be from time to time invested as before, and the interest to be added to and accumulated with Fund B.

48. The provisions of this act were slightly varied by two acts of the 15 Geo. 3, one for vesting part of the garden of the Society of Lincoln's-inn in the Accountant-General and his successors, for the purpose of erecting thereon offices for him and for the registrar of the court; and the other for authorising the funds provided by the act of 1774 to be applied in building a new office for the Six Clerks in the gardens of Lincoln's-inn, instead of rebuilding the old office in Chancery-lane.

49. In 1777 another act was passed, (the 17 Geo. 3, c. 59), which dealt in a remarkable manner with Fund B. From the recitals in this act it appears that in consequence of the mode in which successive Masters of the Rolls had exercised the right of granting and renewing leases of certain portions of the Rolls estate, under leasing powers contained in an act of the 12 Car. 2, the beneficial interest in the improved rents thereof had become absolutely vested in the Master of the Rolls, by whom such leases were granted, and on his decease accrued to his family as part of his private property, to the exclusion of his successors in the office, by means whereof the income intended for the support of the office was rendered uncertain and precarious. It further appears therefrom, that Sir Thomas Sewell, the then Master of the Rolls, and the Earl of Macclesfield, as residuary legatee of Sir Thomas Clarke, the late Master, were respectively entitled to the beneficial interests in certain of the said improved rents, and that with a view to the power of granting leases for the future being properly regulated, and in order that the Master of the Rolls for the time being might not be deprived of so considerable a part of the income necessary to the support of the rank and dignity of his office, it had been proposed to them, and they had respectively agreed, to accept, as an equivalent for the relinquishment and surrender of their rights, sums amounting together to 21,029*l.* 10*s.* 10*d.*, at which the same had been valued. The act further states, that the offices for the Registrar and Accountant-General had been erected and finished, and great progress had been made in erecting the offices for the Six Clerks, and that all the purposes of the three acts of the 14 & 15 Geo. 3, above referred to, had been in a great measure answered out of the funds thereby provided; that the surplus income arising from these funds amounted to 2682*l.* 18*s.* per annum, "which was unappropriated," except only as to what still remained to be raised thereout in order to complete the buildings in progress; and that it was computed that, in case the said sum of 21,029*l.* 10*s.* 10*d.*



were borrowed on a mortgage of the Rolls estate, such mortgage might be discharged out of the said surplus income in about ten years, besides what might appear to be still wanting fully to answer the purposes of the acts of the 14 & 15 Geo. 3. It was therefore enacted, that out of the suitors' cash then lying dead and unemployed in the Bank of England the expenses of obtaining the act should be defrayed, and the said sum of 21,029*l.* 10*s.* 10*d.* paid to the Earl of Macclesfield and Sir Thomas Sewell, in the proportions therein mentioned, in full satisfaction of their respective interests in the Rolls estate under the before-mentioned leases, which sum was to be considered as advanced on the security of, and was to be a charge by way of mortgage on, the said estate, but was to be repaid and discharged, and the said mortgage redeemed, out of the surplus interest before mentioned.

50. It appears by an order of the 25th August, 1794, (a copy of which will be found in the Appendix), that the whole of this sum was repaid and made good to the Sutors' Fund out of the surplus interest, and the account thereof was finally balanced. By a recent act (7 Will. 4 & 1 Vict. c. 46) the Rolls estate has become vested in the Crown.

51. Various acts were subsequently passed, whereby charges of large amount were thrown on the surplus income arising from Funds A. and B. Thus, in 1792, the Lord Chancellor was authorised to expend a sum not exceeding 30,000*l.* out of such income in erecting new offices for the Masters in Chancery and their clerks, and for the secretaries of bankrupts and lunatics and their clerks, and fire-proof repositories for the records, &c. in the said offices, together with a public office for the suitors. Again: in 1810 a sum not exceeding 12,000*l.* was authorised to be taken out of the same surplus income, and applied in building offices for the examiners, cursitors, clerk of the Crown, and clerks of the Petty Bag of the Court of Chancery. In addition to these charges, provision was from time to time made from the same source for augmenting the salaries of the Masters, Registrars, and other officers, for paying the numerous additional clerks and others required by the continually-increasing business of the court in all its branches, for pensioning officers retiring after a certain duration of service, or incapacitated by any permanent infirmity, and for compensating the holders of abolished offices.

52. Notwithstanding, however, these numerous charges, Fund B. continued rapidly to increase. For many years the income of Fund A. alone was more than sufficient to answer all the charges thrown upon the income of both funds, and the surplus was annually transferred to Fund B., and invested and accumulated with the income arising from the latter fund. From the Appendix to the Chancery Commissioners' Report of 1826 it appears that Fund B. then amounted to 537,800*l.* stock. Mr. Parkinson, in his evidence before the committee of 1848, stated that it had then reached the sum of 1,094,604*l.* 10*s.* 10*d.* stock. And from the evidence of Mr. Rogers and Mr. Johnson, given before us, it appears that in 1852 it amounted to no less than 1,291,629*l.* 10*s.* 5*d.* stock, which had been purchased with cash amounting to 1,032,053*l.* 7*s.* 4*d.* At that date, (1852), however, the further accumulation of this fund wholly ceased by the operation of the act 15 & 16 Vict. c. 87, the 53rd section of which directed that the surplus income of Funds A. and B., after meeting the annual charges to which those funds were then respectively liable, should thenceforward be annually carried over, and added to the Sutors' Fee Fund Account, the nature and objects of which we shall presently explain. From the returns made by the Accountant-General of the Court of Chancery for the years 1858 and 1859, (an abstract of which will be found in the Appendix to this our Report), it appears

that such surplus income for the former year (1858) was 55,789*l.* 18*s.*, and for the latter year (1859) 51,825*l.* 0*s.* 6*d.*

53. Having entered thus fully into the history of the Sutors' Fund, we shall next proceed to explain the nature of the Sutors' Fee Fund.

54. By the act 3 & 4 Will. 4, c. 94, commonly known as Lord Brougham's Chancery Regulation Act, extensive alterations were made in the proceedings and practice of the Court of Chancery. Amongst other things, the fees paid by suitors to certain officers of the court, and which had been theretofore retained by them for their own benefit, were directed to be thenceforward accounted for by such officers, and paid into the Bank of England, to the credit of an account to be there opened in the name of the Accountant-General, under the title of "The Sutors' Fee Fund Account," and which fund we will, for the present purpose, call Fund C. Out of this fund various salaries and compensation allowances were directed to be paid; and it was provided, that if, at the end of any year, there should be a surplus standing to the credit of the account after payment of such salaries, &c., the Lord Chancellor might order the same, or such part thereof as he should think fit, to be invested in Government securities in the name of the Accountant-General, to be placed to a separate account, to be intitled "Account of Monies placed out to provide for the Officers of the High Court of Chancery;" and might, in like manner, order the accruing dividends on such securities to be carried to the same account, and to be re-invested and accumulated therewith. This second fund we will, for the present purpose, call Fund D. On the other hand, in the event of there being at any time a deficiency in Fund C. for payment of the salaries and other expenses charged thereon, the Lord Chancellor was empowered to direct the Accountant-General from time to time to make good such deficiency, by resorting to the interest and dividends to arise from Fund D., or, in case of need, by a sale of a portion of the capital thereof; and further, in case the capital and interest of Fund D. should be at any time insufficient to meet any such deficiency, then the Lord Chancellor might direct the Accountant-General from time to time to resort to the income of the Sutors' Fund (Funds A. and B.) for the purpose of making good the deficiency.

55. For several years after the passing of this act there was a considerable annual surplus on the Sutors' Fee Fund Account, (Fund C.), arising from the excess of fees received from the suitors, and paid over to that account, beyond the charges thrown upon it, and this notwithstanding large reductions in the fees from time to time effected by successive orders of the court. This surplus was carried over to a separate account and invested, as directed by the act, and the sums so invested constitute Fund D., which consists of the sum of 201,028*l.* 2*s.* 3*d.* stock, and is the second of the three funds to which we have above referred as in our judgment properly available in aid of the erection of courts and offices.

56. In 1852 another act was passed, (the 15 & 16 Vict. c. 87), intituled "An Act for the Relief of the Sutors of the High Court of Chancery." By this act fixed salaries were substituted for fees throughout all the offices of the court; the Lord Chancellor was empowered to vary, reduce, or abolish any of the existing fees payable in relation to the proceedings of the court, to substitute other fees in lieu thereof, and to direct that all fees should be collected by means of stamps, of which the Commissioners of Inland Revenue were to keep separate accounts, and to pay the monies received and collected in respect thereof into the Bank of England, to the credit of the Sutors' Fee Fund Account. The brokerage theretofore received by the Accountant-General was to be accounted for and paid by him to the



credit of the same account, an additional salary being allowed to him in lieu thereof. Some offices were altogether abolished, and the emoluments of others reduced; and provision was made for giving compensation to the holders of such offices, which compensations, together with various superannuation and retiring allowances, were charged upon and directed to be paid out of the income of the Suitsors' Fund, viz. Funds A. and B. By the 53rd section of the act the surplus income arising from the two last-mentioned Funds A. and B. was no longer, as before, to be invested and accumulated, but was to be carried over to the Suitsors' Fee Fund Account (C.), and to become part thereof. And, lastly, it was provided that the annual surplus (if any) of Fund C. might be invested in Government securities, and added to Fund D., and that any deficiency in Fund C. might from time to time be made good out of the income or capital of Fund D.; but the power to supply such deficiency by a resort, in case of need, to the income of Funds A. and B. was not included in this, as it had been in the act of 1833.

57. Since the passing of this act no addition has or could have been made to Fund B., and no addition has, in fact, been made to Fund D. The surplus interest arising from the stocks and securities constituting the three Funds A., B., and D., has been from year to year carried over to Fund C., (which is entirely an income account); and the surplus of this latter fund has, to a considerable extent, been employed in the further reduction of fees of court, though there is still a surplus on the whole income, as we shall hereafter more particularly shew.

(To be continued).

F. A. CARRINGTON, Esq.—We have to record the death of this gentleman. Mr. Carrington was called to the Bar in 1823. He was a member of the Oxford Circuit, and in 1832 was counsel for Dennis Collins, charged with high treason in throwing two stones at King William IV, at Ascot races. He is known to the Profession as contributor to the well-known *Nisi Prius* Reports of Carrington & Payne, Carrington & Marshman, and Carrington & Kirwan. He also reported for a short time for THE JURIST.

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## BANKRUPTS.

**NATHAN BENJAMIN** and **EDWIN DIPPLE**, New Cat, Lambeth, Surrey, gas fitters, Aug. 22 and Sept. 28 at 12, London: Off. Ass. Whitmore; Sols. Maher, 11, Gray's-inn-square, London; Harrison & Wood, Birmingham.—Pet. f. Aug. 2.

**ROBERT DURRANT** and **GEORGE BROCK**, Norwich, tallow chandlers, Aug. 22 and Sept. 28 at 11, London: Off. Ass. Cannan; Sols. Richardson, 15, Old Jewry-chambers, Old Jewry, London; Sadd, Norwich.—Pet. f. Aug. 1.

**ROBERT OLIVER**, Wilmington-street, Wilmington-square, Clerkenwell, Middlesex, manufacturing jeweller, Aug. 24 at 1, and Sept. 28 at half-past 1, London: Off. Ass. Whitmore; Sols. Flax & Argles, 68, Cheapside.—Pet. f. Aug. 8.

**JOHN BAYLESS WIDNELL**, Regent-street, Middlesex, mantle manufacturer, Aug. 22 and Sept. 28 at 1, London: Off. Ass. Cannan; Sols. Sampson & Co., 30, New Broad-street.—Pet. f. Aug. 1.

**JAMES DENNY CHAPMAN**, Aldermanbury, City, warehouseman, and High-street, Whitechapel, Middlesex, linen-draper, Aug. 24 at half-past 11, and Sept. 28 at 2, London: Off. Ass. Whitmore; Sols. Depree & Austen, 23, Lawrence-lane, Cheapside.—Pet. f. July 25.

**FRANK HOLLOWAY**, Paul-street, Finsbury, Middlesex, engineer, Aug. 22 and Sept. 28 at half-past 11, London: Off. Ass. Cannan; Sol. Chidley, 10, Basinghall-street.—Pet. f. Aug. 7.

**JAMES PITCHER**, Hampstead-road, Middlesex, leather seller, Aug. 22 and Sept. 28 at half-past 12, London: Off. Ass. Cannan; Sols. J. & W. Butler, 191, Tooley-street, Southwark.—Pet. f. Aug. 8.

**GUSTAVE WINTER**, Milk-street, City, warehouseman, Aug. 24 at 12, and Sept. 21 at half-past 12, London: Off. Ass. Whitmore; Sol. Lloyd, 26, Milk-street.—Pet. f. Aug. 4.

**ALBERT LEE WARD**, Fenchurch-street, City, ship broker, (trading under the firm of Ward, Harries, & Co.), Aug. 22 at half-past 1, and Sept. 27 at 11, London: Off. Ass. Whitmore; Sols. J. & C. Cole, 36, Essex-street, Strand.—Pet. f. Aug. 9.

**LAZARUS LEWIS**, New-street and Hutchison-street, Gravel-lane, Houndsditch, City, trimming seller, Aug. 24 and Sept. 22 at 11, London: Off. Ass. Cannan; Sol. Sydney, 53, Jewry-street, Aldgate.—Pet. f. Aug. 9.

**WILLIAM RICHARDS**, Upper North-place, Gray's-inn-road, Middlesex, builder, Aug. 22 at 2, and Sept. 22 at half-past 11, London: Off. Ass. Cannan; Sols. Lawrence & Co., 14, Old Jewry-chambers, Old Jewry, London.—Pet. f. Aug. 10.

**HENRY FOOT**, Fort-street, Spitalfields, Middlesex, and Sudbury, Suffolk, silk manufacturer, Aug. 23 at 12, and Sept. 24 at half-past 1, London: Off. Ass. Pennell; Sols. Peek & Downing, 10, Basinghall-street, City.—Pet. f. Aug. 27.

**JOSIAH ADAMS**, Hanley, Staffordshire, grocer, Aug. 16 and Sept. 7 at 11, Birmingham: Off. Ass. Whitmore; Sols. Hodgson & Allen, Birmingham; Evans & Co., Liverpool, (and not Birmingham, as previously advertised).—Pet. d. July 20.

**WILLIAM JEFFRIES**, Dudley, Worcestershire, iron-master, Aug. 20 and Sept. 10 at 11, Birmingham: Off. Ass. Kinnear; Sols. Hodgson & Allen, Birmingham.—Pet. d. July 31.

**GEORGE VICARY WAKEFIELD** and **ROBERT BIRT**, Swansea, Glamorganshire, hotel keepers, Aug. 22 and Sept. 19 at 11, Bristol: Off. Ass. Acraman; Sols. Ensor, Cardiff; Abbott & Co., Bristol.—Pet. f. July 26.

**GEORGE REEVES** the younger, Cheltenham, Gloucestershire, riding master, Aug. 22 and Sept. 19 at 11, Bristol: Off. Ass. Acraman; Sol. Williams, Cheltenham.—Pet. f. Aug. 6.

**ALBINE WILLIAMSON**, Nottingham, blacksmith, Aug. 21 and Sept. 20 at 11, Nottingham: Off. Ass. Harris; Sol. Smith, Nottingham.—Pet. d. Aug. 8.

**ROBERT MILLER**, Winterborne Kingston, Dorsetshire, letter for hire of agricultural machines, Aug. 22 and Sept. 12 at 1, Exeter: Off. Ass. Hirtzel; Sols. Lock, Dorchester; Terrell, Exeter.—Pet. f. Aug. 7.

**SAMUEL SOLOMON MAURICE**, Great St. Helen's, Bishopsgate-street, City, merchant, (carrying on business with Georges De Mets, at Odessa, under the style or firm of Georges De Mets & Co.), Aug. 21 at 11, and Sept. 25 at half-past 11, London: Off. Ass. Edwards; Sol. Spyer, 30, Broad-street-buildings, London.—Pet. f. Aug. 7.

**JOHN WESLEY SWANN**, Manchester, India rubber manufacturer, Aug. 21 and Sept. 30 at 12, Manchester: Off. Ass. Hernaman; Sols. Hewitt & Needham, Manchester.—Pet. f. Aug. 6.

## MEETINGS.

*William Hunter*, Three Colt-street, Limehouse, Middlesex, ship joiner, Aug. 20 at half-past 11, London, and ac.—*John Barton* and *George Barton*, Manchester, copper roller manufacturers, Aug. 21 at 12, Manchester, and ac.

## CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*Nathaniel Symons*, Cambridge-street, St. Pancras, Middlesex, ironfounder, Sept. 3 at half-past 12, London.

*To be granted, unless an Appeal be duly entered.*

*Henry Harvey*, Hatton-garden, Holborn, Middlesex, lamp manufacturer.—*Louis Cook*, Great Cambridge-street, Hackney-road, Middlesex, shoe manufacturer.—*Kershaw Noble*, Ambler Thorn, Northowram, Halifax, Yorkshire, joiner.—*Joseph Slater*, Leeds and Oulton, Yorkshire, stone merchant.

## SCOTCH SEQUESTRATIONS.

*John Allan*, Inverkeithing, grocer.—*David Breckenridge*, Glasgow, house factor.—*Wm. Urquhart*, Dingwall, grocer.—*George Alexander Mitchell*, Glasgow, ironmonger.—*Ga. Brown*, Aberdeen, draper.—*William Stewart*, Corshalloch, Gartly, Aberdeenshire, farmer.

## TUESDAY, Aug. 14.

## BANKRUPTS.

**ROBERT MITCHELL**, Tunbridge Wells, Kent, draper, Aug. 24 at half-past 12, and Sept. 22 at 12, London: Off. Ass. Cannan; Sols. Cox & Sons, 14, Sise-lane, London.—Pet. f. Aug. 4.

**THOMAS HENRY HARPER**, Abingdon, Berkshire, confectioner, Aug. 24 at half-past 1, and Sept. 27 at 12, London: Off. Ass. Whitmore; Sols. Bishop & Son, 2, Tudor-street, Blackfriars.—Pet. f. Aug. 10.

**JAMES ZACHARIES WILLIAMS**, Woburn-chambers, Henrietta-street, Covent-garden, Middlesex, builder, Aug. 24 at half-past 10, and Sept. 27 at 1, London: Off. Ass. Whitmore; Sol. Peckham, 4, Ludgate-street, St. Paul's.—Pet. f. Aug. 3.

**JOHN THOMSON**, High-street, Kensington, and Brydgest, Covent-garden, Middlesex, licensed victualler, (trading as Charles Thomson), Aug. 24 at 2, and Sept. 27 at half-past 12, London: Off. Ass. Whitmore; Sol. Peckham, 40, Ludgate-street.—Pet. f. Aug. 9.

**RANSON GEORGE WILKINSON**, Fenchurch-street, City, shipbroker, Aug. 27 at 11, and Sept. 24 at 2, London: Off. Ass. Pennell; Sols. Norton & Co., New-street, Bishopsgate, London.—Pet. f. Aug. 10.

**JOHN PAGE**, Tong Norton, Tong, Shropshire, licensed victualler, Aug. 31 and Sept. 21 at 11, Birmingham: Off. Ass. Whitmore; Sols. Smith, Wolverhampton; James & Knight, Birmingham.—Pet. d. Aug. 9.

**EDWARD WHERRY**, Market Deeping, Lincolnshire, grocer, Aug. 28 and Sept. 20 at half-past 11, Nottingham: Off. Ass. Harris; Sols. Bowley & Ashwell, Nottingham.—Pet. d. Aug. 9.

**JOHN WILLIAMS**, Roath, Glamorganshire, builder, Aug. 28 and Sept. 25 at 11, Bristol: Off. Ass. Acraman; Sols. Ensor, Cardiff; Abbott & Co., Bristol.—Pet. f. Aug. 9.

**GEORGE HASLUCK**, Tetbury, Gloucestershire, ironmonger, Aug. 27 and Sept. 24 at 11, Bristol: Off. Ass. Miller; Sols. T. & R. C. Paul & Co., Tetbury; Abbot & Co., Bristol.—Pet. f. Aug. 6.

**JOSEPH EDMUND DAVIES**, Newport, Monmouthshire, innkeeper, Aug. 28 and Sept. 25 at 11, Bristol: Off. Ass. Miller; Sols. Cathcart, Newport; Brittan & Son, Bristol.—Pet. f. Aug. 7.

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THE JURIST.

LONDON, AUGUST 18, 1860.

THE case of *Beatson v. Skene* (6 Jur., N. S., part 1, p. 790) is an important addition to our law of evidence. Before stating the points decided in it, it will be necessary to give an outline of the case itself. It was an action for slander. At the trial, before Bramwell, B., the slander was proved, and the defence was, that the words were spoken under circumstances which rendered them privileged. It appeared that during the Crimean war the plaintiff was appointed to the command of an irregular corps of cavalry called the "Bashi Bazouks," which command he retained until September, 1855; and that the defendant was a civil commissioner attached to the corps. General Vivian, who commanded in the place where that corps was, had directed Colonel Shirley to inquire into and report on its condition, referring him for information to the defendant, who was, by another letter from the General, directed to give it. In a written communication respecting the state of the corps made by Colonel Shirley to the General were some defamatory observations on the conduct of the plaintiff, and the defendant having adopted the responsibility of the contents of that letter, this action was brought. Mr. Sidney Herbert, the Secretary at War, was subpoenaed on the part of the plaintiff; and on his appearing was asked to produce certain letters written to him by the plaintiff, and also the minutes of a court of inquiry, which had sat to inquire into the conduct of Colonel Shirley in writing as he did to General Vivian. To this Mr. Sidney Herbert

objected, saying it was essential to the public service that those documents should not be produced; to which the judge replied, "You represent her Majesty, and are the best judge of that. I shall not compel you to produce them." The jury having found a verdict for the defendant, a rule for a new trial was obtained, on the ground (among others, to which it is needless to refer) that the judge ought to have compelled the Secretary at War to produce those documents. This rule was argued, and, after time taken to consider, an elaborate judgment was delivered by the Lord Chief Baron in the name of the Court.

That State papers are privileged from production, when their production would be injurious to the public, may be taken as an elementary principle of law, and, we might add, of common sense also. It is a well-known maxim, that the law will allow injury to an individual sooner than a general inconvenience, and it is obvious that mischiefs to a private individual are as nothing when weighed against those that might result to the community from the disclosure of the contents of many kinds of State papers. But the great point in *Beatson v. Skene* was, by whom is the question, whether the production of a given State paper would or would not be injurious to the public, to be determined—should it be decided by the judge, or is he bound to take the word of the officer who has the custody of the document? And this point became of the more importance since the recent case of *Dickson v. The Earl of Wilton*, (1 Fost. & F. 419), where a clerk from the War Office, who was called on to produce a letter, having submitted, on behalf of the Secretary at War, whether it ought to be produced, Lord Campbell, C. J., said,

(without, however, argument, or even objection taken), "You must produce the letter."

Such being the question, the following principles are laid down in the judgment of the Exchequer in *Beatson v. Skene*:—

"We are of opinion that if the production of a State paper would be injurious to the public service, the general public interest must be considered paramount to the individual interest of a suitor in a court of justice; and the question then arises, how is this to be determined? It is manifest it must be determined either by the presiding judge, or by the responsible servant of the Crown in whose custody the paper is. The judge would be unable to determine it without ascertaining what the document was, and why the publication of it would be injurious to the public service—an inquiry which cannot take place in private, and which, taking place in public, may do all the mischief which it is purposed to guard against.

"It appears to us, therefore, that the question, whether the production of the document would be injurious to the public service, must be determined, not by the judge, but by the head of the department having the custody of the paper; and if he is in attendance, and states that in his opinion the production of the document would be injurious to the public service, we think the judge ought not to compel the production of it. The administration of justice is only a part of the general conduct of the affairs of any state or nation, and, we think, is (with respect to the production or non-production of a State paper in a court of justice) subordinate to the general welfare of the community. If, indeed, the head of the department does not attend personally to say that the production will be injurious, but sends the document, to be produced or not, as the judge may think proper; or, as was the case in *Dickson v. The Earl of Wilton*, before Lord Campbell, (reported 1 *Fost. & F.* 419), where a subordinate was sent with the document, with instructions to object, but nothing more, the case may be different."

This judgment is not, however, quite an unanimous one, Martin, B., being of opinion that "whenver the judge is satisfied that the document may be made public without prejudice to the public service, he ought to compel its production, notwithstanding the reluctance of the head of the department to produce it." On this the Lord Chief Baron remarks, in the general judgment of the Court—"Perhaps cases might arise where the matter would be so clear that the judge might well ask for the document, in spite of some official scruples as to producing it; but this must be considered rather as an extreme case; and extreme cases throw very little light on the practical rules of life."

In consequence of this discrepancy of opinion on the Bench, *Beatson v. Skene*, although throwing much light on the law on this important subject, can scarcely be said to have settled it; and, indeed, it is one not very easy to settle. Some assistance may, perhaps, be derived from the authorities on a somewhat similar and equally unsettled point; which was not, however, attended to in that case. It is a well-known principle of law, that no person shall be compelled to answer any question the answering which has a tendency to

expose him either to a criminal prosecution, or to proceedings for a penalty, or a forfeiture; but when a particular question is put to a party to a suit, or a witness, who is to determine whether the question has that tendency? Some eminent judges have said, that if the witness will pledge his oath to that effect, the Court is bound by it, and must disallow the question. Others deny this; and, indeed, it is obvious, that to adopt such a rule in its integrity would supply an unprincipled witness with the means of evading the giving any evidence whatever. In one case on this subject, (*Adams v. Lloyd*, 3 H. & Norm. 361; 4 Jur., N. S., part 1, p. 590), Pollock, C. B., suggested an intermediate course, holding that the statement on oath of the witness ought to be accepted, "unless the judge is perfectly certain that the witness is trifling with the authority of the Court, and availing himself of the rule of law to keep back the truth, having, in reality, no ground whatever for claiming the privilege." This seems much the view taken of the other question in *Beatson v. Skene*, and it seems near the truth. We should, however, suggest this addition—"or if the judge is certain that the scruples of the witness are unfounded in fact, as being the offspring either of ignorance of law, or the result of idle terror and misapprehension."

The Court also decided, in *Beatson v. Skene*, that "when once a confidential relation is established between two persons with regard to an inquiry of a private nature, whatever takes place between them relevant to the same subject, though at a time and place different from those at which the confidential relation began, may be entitled to protection as well as what passed at the original interview; and it is a question for the jury whether any further conversation on the same subject, though apparently casual and voluntary, does not take place under the influence of the confidential relation already established between them, and is therefore entitled to the same protection."

## REPORT OF THE COMMISSIONERS

APPOINTED TO INQUIRE INTO THE EXPEDIENCY OF BRINGING THE COURTS TOGETHER INTO ONE PLACE OR NEIGHBOURHOOD.

(Continued from p. 307.)

58. From the evidence of Mr. Rogers and Mr. Johnson, and from the annual returns made by the Accountant-General, and laid before Parliament, for the years ending the 1st October, 1858 and 1859, (of which an abstract will be found in Appendix D.), the following appears to be the state of these respective funds:—

### FUNDS A. AND B.—1858.

Total income, including balance of cash brought from preceding year .. ..	£137,788	9	10
Total payments, viz. salaries, pensions to retired officers, and miscellaneous charges £30,216 0 11			
Compensations in respect of abolished offices, including terminable salaries .. ..	31,370	11	3
			61,566 19 9
Surplus .. ..			76,196 17 6
Of which was carried over to Fund C. ..			55,789 18 0
Leaving balance of cash to credit of account on the 1st October, 1858 .. ..			£20,406 19 8

1859.			
Total income, including balance of 1858 ..	£185,636	1	8
Total payments, viz. salaries, &c. .. ..	£33,184	5	5
Compensations .. ..	30,724	4	11
	63,908	10	4

Surplus .. ..	71,727	11	4
Of which was carried to Fund C. .. ..	51,825	0	6

Balance of cash on the 1st October, 1859 ..	£19,902	10	10
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## FUND C.—1858.

Income.			
Balance brought from preceding year ..	£68,510	5	3
Fees levied on suitors .. ..	101,969	5	8
Dividends of Fund D. .. ..	5,880	1	5
Brokerage paid over by Accountant-General	4,078	18	7

Brought over from Funds A. and B. ..	180,438	10	11
	55,788	6	0

Payments, viz.—			
Salaries, rents, expenses of copying, and miscella- neous charges .. ..	£112,053	15	6
Compensations .. ..	44,162	14	2
	156,216	9	8

Balance of cash .. ..	£80,010	7	3
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## 1859.

Income.			
Balance as above .. ..	£80,010	7	3
Fees from suitors .. ..	97,984	4	0
Dividends of Fund D. .. ..	5,905	4	0
Brokerage .. ..	4,646	1	3

Brought from Funds A. and B. .. ..	188,545	16	6
	51,825	0	6

Payments.			
Salaries, &c. .. ..	£113,141	2	0
Compensations .. ..	43,672	1	4
	156,813	3	4

Balance of cash .. ..	£83,557	13	8
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Excluding the balances brought from pre- vious years, it seems that, in 1858, the total income of Fund C. from all sources (including the amount of cash brought over from Funds A. and B.) was ..	£167,718	11	8
And the total expenditure .. ..	156,216	9	8

Leaving a surplus income of .. ..	£11,500	2	0
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In the year 1858–9 there was some falling off in the fees received from suitors, a diminished transfer from Funds A. and B., and some increase in the payments for salaries, in consequence of which—

The income was only .. ..	£160,960	9	9
While the expenditure was .. ..	156,813	3	4

Thus reducing the surplus income to .. ..	£3,547	6	5
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Again: treating all these funds as, for practical purposes, one entire fund, and excluding, as before, the balances of previous years—

The aggregate income for 1858 was ..	£223,486	7	9
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And the aggregate expenditure, viz.			
Salaries, pensions, &c. .. ..	£142,269	18	5
Compensations .. ..	75,533	5	5
	217,803	1	10

Leaving a clear surplus income of .. ..	£8,683	5	11
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While, owing to the circumstances above adverted to, in 1859—

The entire income was .. ..	£223,764	11	3
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And the expenditure, viz.			
Salaries, &c. .. ..	£146,325	7	5
Compensations .. ..	74,396	6	3
	220,721	13	8

The surplus of income being .. ..	£3,043	17	7
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59. It remains for us to explain the nature of the third fund to which we have above referred, as being in our judgment properly available for the proposed objects. It consists of a sum of 83,254*l.* 5*s.* 1*d.* cash, forming part of the public balances now standing to the credit of the Paymaster-General at the Bank of England, and wholly unappropriated.

60. From the evidence of Mr. Seton, it appears that, under the authority of certain recent acts of Parliament, an account of all fees received from suitors in the superior courts of law is annually rendered to the Treasury by the Masters and other officers of the several courts, and the net amount of such fees, after deducting certain rents, salaries, and other expenses incurred in the respective offices, is paid over to the Treasury. A separate account is kept of the monies so received, and of other payments subsequently made thereon by the Treasury, and the net surplus thereof is shewn by Mr. Seton to have amounted, on the average of the last six years, to upwards of 14,000*l.* per annum. The sum of 83,254*l.* 5*s.* 1*d.*, above referred to as Fund E., is the aggregate amount of such surplus from the year 1852 to the 1st January, 1860, and that sum now stands to the credit of an account called “The Fee Fund Account, Superior Courts of Law.” For the fund thus accumulated, and for the monies hereafter to be received from the same source, no appropriation whatever has hitherto been provided by Parliament.

61. We have felt it necessary to enter thus fully into the nature and history of these several funds, the mode in which they have been from time to time dealt with, the conditions under which they are held, and the charges and incumbrances to which they are respectively liable, because, without such a statement, it appeared to us that it would be impossible to arrive at any satisfactory conclusion on the practical question, whether they may, or may not, be made to supply the means of effecting the objects recommended in the earlier part of this our Report. To that question we shall now address ourselves; and in so doing our first inquiry will be, whether there is, in principle, any valid objection to the appropriation of these funds to the proposed objects; that is to say, whether such appropriation would involve the violation of the rights of property, or of any other existing right, legal, equitable, or moral? If it would, there is, of course, an end of the question, and the discussion of points of detail would be an idle waste of time and labour. If it would not, we may then fitly proceed to consider in what manner, to what extent, and subject to what conditions and limitations, those funds may, with your Majesty’s sanction, and by the aid and under the authority of Parliament, be made available for carrying into effect the contemplated scheme.

62. For all practical purposes, indeed, the scope of our inquiry may be in a great measure limited to the first of the three funds in question. Upon the applicability of the Profit or Accumulation Fund B. the controversy substantially turns; and unless that fund can with justice be so applied, it would be superfluous to prosecute the inquiry with regard to the remaining funds. In that case, our reply to the question which your Majesty has referred to us, as to the existence of adequate means for the accomplishment of the desired end, must necessarily be in the negative.



63. The first question, then, which we have to consider is, whether the appropriation of Fund B. in the mode proposed would involve the violation of any rights of property? A majority of us are clearly of opinion that it does not, for the following reasons\*.

64. It has been submitted to us, that this Fund B. belongs to the suitors of the Court of Chancery; that it is, in truth, a part of their, the suitors' fund; that it has been produced entirely by the profitable employment of their money; and consequently, that if not as matter of strict legal right, yet upon principles of justice, and by analogy to the recognised doctrines of courts of equity, it should be considered as their property. In support of this view, it has been suggested that, as regards money paid into court in the course of litigation, the Court of Chancery stands towards the suitors in the same relation in which an ordinary trustee stands towards his cestui que trust; and that as a trustee having trust money in his hands, and employing it to a profit, must account for such profit to the cestui que trust, so the court must account to the suitors for the profit which it (the court) has made by the investment of the suitors' cash.

65. We are of opinion that there is no foundation for this argument, and that the supposed analogy on which it rests wholly fails. The Court of Chancery can, in no proper sense of the term, be considered in the light of a trustee for the suitors. It exists for the purpose of administering justice between litigants; and lest, whilst their rights are under investigation, the money which may be the subject of litigation should be wasted by the actual possessor, whose possession may ultimately turn out to be wrongful, the court orders it to be impounded, and placed in secure deposit, to abide the eventual decision. When so deposited, the parties themselves may apply to have it invested, and if they do, they bear the loss or take the profit of the investment, as the case may be. If they do not, the court (which, as regards the possession of the money, is in the position of a mere stakeholder) transfers the stake to the successful litigant, when the litigation is terminated, without diminution on the one hand, and without increase on the other.

66. Independently, however, of the question as to the position of the Court of Chancery as a trustee, it appears to us that the course of the preceding narrative furnishes in itself the most complete answer to any claim which could be put forward to Fund B. as being the property of the suitors. It is clear that previously to 1725 the suitors' cash deposited with the Masters of the court was employed by them for their own profit, and that the profit derived from that employment constituted a portion of their official remuneration. But when, in the year 1725, that state of things was put an end to, and the office of Accountant-General was created, the money of the suitors, not required to meet current demands, remained in the Bank of England (to use the language of the statutes) "dead and unemployed." The court had no power to employ it, or, except at the instance of the suitors themselves, to direct its investment. It was not until the year 1739 that the Legislature for the first time interfered, and (by the act of the 12 Geo. 2, c. 24) gave to the court a power for that purpose which it did not before possess, limited, however, to the specific and definite sum mentioned in the act. When that sum was invested the power of the court was exhausted, and the suitors' cash again accumulated in the coffers of the Bank of England, until a further power, similarly defined and limited, was given by a succeeding act. And thus, by a succession of statutes, extending over the period from

1739 to 1852, the Fund A., representing the suitors' invested cash, has been, as we have shewn, gradually formed. The formation of this fund, therefore, was not the act of the court, exercising its inherent functions for the benefit of the suitors, but was the result of special legislative interference; and although each separate investment was made by an order of the court, yet those orders were issued in pursuance only of a delegated authority, and for a specific and limited purpose.

67. But in what manner did the Legislature deal with the fruits of these investments? Did it direct that the income should follow the capital, and that the profit should belong to those by the employment of whose money such profit had been produced? Quite the reverse. It from time to time, and on the occasion of each investment, specially appropriated the income arising therefrom to such objects and purposes as appeared suitable to the particular exigencies of the moment. Thus, at one time the expenses of the Accountant-General's office were to be provided for; at another, the salaries of the Masters were to be increased; at another, new buildings were to be erected for the transaction of the varied business of the court; at another, pensions were to be given to incapacitated or retiring officers, and compensations to be provided for the holders of abolished offices; and in one remarkable instance, which has been specially noticed in the preceding narrative, the profits of the suitors' cash were employed, to the extent of 21,000*l.* and upwards, in making good to the income of the Rolls' estate the dilapidations which had been occasioned therein, either by the laxity of Parliament itself in the creation of leasing powers, or by the unscrupulous manner in which those powers had been exercised by successive Masters of the Rolls. And when all these various purposes had been answered, how did the Legislature deal with the surplus profit? Having from time to time declared the same to be "unappropriated," it directed this unappropriated income to be carried over to a distinct and separate account, and to form a new fund, the income of which was, in its turn, applied to similar purposes. Thus it is that Fund B. has been gradually formed, and this latter fund is as much the child and creature of legislation as Fund A., from which it was originally derived. It appears to us that these various dealings are entirely inconsistent with, nay, utterly destructive of, the theory that the profit made by the employment of the suitors' cash belongs to the suitors. They shew, on the contrary, that Parliament, by whose direct interference alone the profit was made, expressly reserved to itself the right of directing the mode in which it should be applied, and the purposes to which it should be from time to time appropriated. The profit was made, not by the Court of Chancery, but by Parliament, and Parliament determined for itself the purposes for which the same should be employed.

68. But further, as the fund in question is alleged to be the property of the suitors, we must proceed to inquire to what suitors it so belongs. The cash from time to time invested was not the cash of individual suitors, but such portion only of the general floating balance of suitors' cash, then lying dead and unemployed in the Bank of England, as was not required to answer current demands. The income arising from such investments was uniformly directed to constitute part of the "common and general cash of the suitors," and to be promiscuously used and applied to answer the purposes to which it was destined. All traces of individuality are therefore lost, and no suitor could point to, and as it were earmark, his own cash, and affirm that such cash had been the specific subject of investment and profit. It is in evidence before us that in 1826 Fund B. amounted to 537,800*l.* stock. This stock had been the produce of investments of the surplus interest of Fund A. made at antecedent periods,

\* To what extent the opinion of Sir W. P. Wood, V. C., differs from that of the other commissioners will appear from his observations in the Appendix.

from 1739 downwards. Upon what principle, then, could the suitors of 1860 claim to participate in the profits made by the employment of the cash of other suitors prior to 1826? Between the year 1739 and the present time cash to the amount of some hundreds of millions has been paid into and drawn out of court by suitors, and yet during the whole of this long period not one single suitor has ever received anything beyond the cash actually paid into court, or has claimed any portion of the profit to which we are referring. It appears to us that this fact conclusively proves that such profit was never considered to be the property of the suitors, either by the court or by the suitors themselves.

60. But it has next been suggested to us, that although individual suitors may have no property in Fund B., and no right to interfere with its appropriation, yet that the collective body of suitors have just ground for objecting to its application to any purposes other than those by which they, as a body, are immediately benefited; and consequently, that the application of any portion of Fund B. to the erection of common-law courts and offices would be a violation of their equitable and moral rights and claims. This argument is rested upon two grounds—first, that the fund in question, having been derived exclusively from the monies of the suitors of the Court of Chancery, ought not to be employed except for the benefit of the suitors of that court; and, secondly, that Parliament having uniformly and exclusively dedicated the income, from the surplus of which the fund in question has arisen, to purposes connected with the Court of Chancery, has thereby impressed the fund with a species of trust, which would be violated by the application of any portion thereof otherwise than for the benefit of the suitors of the Court of Chancery.

70. We have given to this argument all the consideration to which the learning, character, and station of the eminent person by whom it has been propounded justly entitle it; but, after mature reflection, we find ourselves unable to concur therein.

71. In the first place, it appears to us to be founded upon a distinction between courts of equity and courts of law, for which there is, in our judgment, no just or solid foundation. We cannot but consider that all the courts, whether of law or of equity, including therein the Courts of Divorce and Probate, and the High Court of Admiralty, and all the branches of each court, whether judicial or administrative, form together one great system for administering justice, in which all the subjects of the realm have a common interest, and to which, therefore, any funds, from whatever source derived, if those funds are at the free disposal of Parliament, may be legitimately applied; and we think that this may be more confidently affirmed at a time when, as we have already observed, the tendency of legislation is to assimilate the courts of law and equity by an attribution to each of powers and functions hitherto exercised exclusively by one of them.

(To be continued).

**REVISING BARRISTERSHIP.**—The Lord Chief Justice has appointed John Hurrell, Esq., to the Revising Barristership on the Home Circuit, vacant by the appointment of Mr. Norton to the Mastership of the Crown Office in the Court of Queen's Bench.

The Right Hon. Sir William Erle, Knt., Lord Chief Justice of her Majesty's Court of Common Pleas at Westminster, has appointed the following gentlemen to be Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women:—Edward Tompson, of Stone-buildings, Lincoln's-inn, in and for the city of London, also in and for the city and liberties of Westminster, and county of Middlesex; and John Jones, of Southport, Lancashire, in and for the county of Lancaster.

**JOHN RICHARD TEALE**, Leeds, Yorkshire, cabinet maker, Aug. 27 and Sept. 17 at 11, Leeds: Off. Ass. Hope; Sol. Simpson, Leeds.—Pet. d. Aug. 10.

**WILLIAM KAYE**, Clayton West, High Hoyland, Yorkshire, grocer, Aug. 27 and Sept. 17 at 11, Leeds: Off. Ass. Hope; Sols. Clough, Huddersfield; Bond & Barwick, Leeds.—Pet. d. Aug. 9.

**JOSEPH ROTHERY**, Halifax, Yorkshire, watchmaker, Sept. 3 and 27 at 11, Leeds: Off. Ass. Hope; Sols. Wavill & Co., Halifax; Bond & Barwick, Leeds.—Pet. d. Aug. 9.

**JOSEPH WILSON HORN**, Penrith, Cumberland, and Newcastle-upon-Tyne, tobacco manufacturer, Aug. 22 at half-past 11, and Oct. 10 at half-past 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Harle & Co., 20, Southampton-buildings, Chancery-lane, London, and Newcastle-upon-Tyne.—Pet. f. Aug. 9.

**JOHN DODD**, Hexham, Northumberland, tanner, Aug. 22 at half-past 11, and Oct. 4 at half-past 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Hodge & Harle, Newcastle-upon-Tyne.—Pet. f. July 19.

#### MEETINGS.

*Timothy Spencer*, Woolwich, Kent, tailor, Aug. 25 at 12, London, aud. ac.—*James William Fergusson*, Paternoster-row, City, and New-court, Middle Temple, bookseller, Aug. 25 at half-past 11, London, aud. ac.—*Wm. Albert Stapley*, Old Compton-street, Soho, Middlesex, shoe mercer, Aug. 25 at 11, London, aud. ac.—*Samuel Wright*, Manchester, hotel keeper, Aug. 31 at 12, Manchester, aud. ac.—*L. Alexander* and *Wm. Bardgett*, Old Broad-street, City, merchants, Sept. 5 at half-past 11, London, div.—*John Clarke*, King's Lynn, Norfolk, victualler, Sept. 5 at 11, London, div.—*Sir Charles Fox* and *John Henderson*, Smethwick, Staffordshire; New-street, Spring-gardens, Westminster; and Fore-street, Limehouse, Middlesex, engineers, Oct. 29 at 11, Birmingham, div. sep. est. of *John Henderson*.—*Jonathan Higginson* and *Richard Deane*, Liverpool, merchants, Sept. 5 at 11, Liverpool, div.

#### CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*Wm. D. Hoad*, Rye, Sussex, shipbuilder, Sept. 6 at half-past 1, London.—*James B. Dunn* and *Edwin F. A. Boyle*, New-street, Spring-gardens, Middlesex, dealers in iron, Sept. 4 at 2, London.—*John Cooper*, Manchester, illuminated glass manufacturer, Sept. 6 at 12, Manchester.—*Thomas Bonser*, Plungar, Leicestershire, auctioneer, Sept. 12 at half-past 11, Nottingham.—*Bachel Cherrington*, Donington, Lincolnshire, druggist, Sept. 12 at half-past 11, Nottingham.—*F. Ward*, Nottingham, victualler, Sept. 12 at half-past 11, Nottingham.

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## GAZETTES:—FRIDAY, Aug. 17.

## BANKRUPTS.

**WILLIAM SMITH and WILLIAM FRANCIS PATIENT**, Bermondsey New-road, Surrey, tanners, (carrying on business under the firm of Smith, Patient, & Smith), Aug. 31 and Oct. 11 at 12, London: Off. Ass. Cannan; Sols. Murray & Co., 11, Birchfin-lane.—Pet. f. Aug. 14.

**THOMAS BISCOE**, Great James-st., Liason-grove, Marylebone, Middlesex, leather seller, Aug. 30 at half-past 11 and Sept. 27 at half-past 1, London: Off. Ass. Cannan; Sol. Vaughan, 54, Connaught-terrace, Edgware-road.—Pet. f. Aug. 15.

**AMOS SMITH**, Andover-road, Hornsey-road, Holloway, Middlesex, builder, Aug. 24 at 11, and Oct. 5 at half-past 11, London: Off. Ass. Whitmore; Sol. Orchard, 5, John-street, Bedford-row.—Pet. f. Aug. 14.

**RICHARD STEWARD**, Great Yarmouth, Norfolk, carpenter, Aug. 30 at 1, and Sept. 27 at half-past 11, London: Off. Ass. Cannan; Sols. J. & J. H. Linklater & Co., 7, Walbrook.—Pet. f. Aug. 14.

**JAMES COOKE WEBSTER**, Watling-street, London, and Church-passage, Blackfriars-road, Surrey, shirt dresser, Aug. 30 at 12, and Oct. 12 at 1, London: Off. Ass. Whitmore; Sol. Bell, 21, Abchurch-lane.—Pet. f. Aug. 15.

**GEORGE STONE HUBBARD**, Aldermanbury, City, warehouseman, (trading as G. S. Hubbard & Co.), Aug. 27 at 12, and Sept. 26 at half-past 1, London: Off. Ass. Graham; Sols. Sole & Co., 68, Aldermanbury, London.—Pet. f. May 3.

**GEORGE WIGGLESWORTH**, Richardson-street, Bermondsey, Surrey, leather dresser, Aug. 27 at half-past 11, and Sept. 26 at 2, London: Off. Ass. Graham; Sol. Riches, 34, Coleman-street, London.—Pet. f. Aug. 16.

**JAMES HALL**, Oxford, builder, Aug. 27 at 11, and Sept. 26 at 1, London: Off. Ass. Stansfeld; Sols. Hurford & Taylor, 5, Furnival's-inn, Holborn, London.—Pet. f. Aug. 16.

**JOHN DALES**, Gresham House, Old Broad-street, London, and Dewsbury, Yorkshire, merchant, Aug. 29 at 1, and Sept. 26 at half-past 12, London: Off. Ass. Stansfeld; Sol. Lloyd, 26, Milk-street, London.—Pet. f. Aug. 16.

**STEPHEN ROGERS**, Carnaby-street, Regent-street, Middlesex, licensed victualler, Aug. 27 at 1, and Sept. 28 at half-past 1, London: Off. Ass. Stansfeld; Sol. Davis, 10, Golden-square, London.—Pet. f. Aug. 16.

**CHARLES SELSON DAVIS**, Goswell-street, Middlesex, and Chatsworth-cottages, Forest-lane, Stratford, Essex, bookbinder, Aug. 27 at half-past 1, and Sept. 28 at 2, London: Off. Ass. Stansfeld; Sols. Burchell & Co., 24, Red Lion-square, London.—Pet. f. Aug. 17.

**CHARLES BALLARD**, Brownlow-place, Queen's-road, Dalston, Middlesex, shoe manufacturer, Aug. 27 at half-past 12, and Sept. 26 at half-past 2, London: Off. Ass. Graham; Sol. Stubbs, 46, Moorgate-st., London.—Pet. f. Aug. 16.

**FREDERICK CHARLES PERRY**, Roughwood Colliery and Furnaces, and Ryecroft Colliery, near Walsall, and Hallfields Furnace, near Bilston, Staffordshire, and Stockport, Cheshire, ironmaster, Aug. 29 and Sept. 24 at 11, Birmingham: Off. Ass. Whitmore; Sols. Hodgson & Allen, Birmingham.—Pet. f. Aug. 15.

**MOSES CARTWRIGHT**, Longton and Silverdale, Staffordshire, dealer in pottery materials, Sept. 7 and 28 at 11, Birmingham: Off. Ass. Kinneir; Sols. James & Knight, Birmingham; Clarke & Co., Longton.—Pet. d. Aug. 16.

**THOMAS MILES and ROBERT MILES**, Derby, grocers, Aug. 30 and Sept. 20 at half-past 11, Nottingham: Off. Ass. Harris; Sol. Gamble, Derby.—Pet. d. Aug. 14.

**JOHN BURTON**, Colsterworth, Lincolnshire, brick manufacturer, Aug. 28 and Sept. 27 at 11, Nottingham: Off. Ass. Harris; Sol. Ashwell, Nottingham.—Pet. d. Aug. 14.

**GEORGE BYDDER**, Swansea, Glamorganshire, brewer, Aug. 28 and Oct. 2 at 11, Bristol: Off. Ass. Acraman; Sols. Henderson, Bristol; Poole & Co., London.—Pet. f. Aug. 7.

**JAMES M'NULTY and JOHN M'NULTY**, Ashton-under-Lyne, Lancashire, joiners, (trading under the firm of James & John M'Nulty), Aug. 29 and Sept. 28 at 12, Manchester: Off. Ass. Pott; Sols. Darnton & Greaves, Ashton-under-Lyne.—Pet. f. Aug. 15.

**RICHARD LIMBECK**, Golden Valley Mill, Bitton, Gloucestershire, miller, Aug. 28 and Oct. 1 at 11, Bristol: Off. Ass. Miller; Sols. Bush & Ray, Bristol.—Pet. f. Aug. 15.

**JOHN STEELE LOPHTHOUSE**, Liverpool, licensed victualler, Aug. 30 at 12, and Sept. 17 at 11, Liverpool: Off. Ass. Morgan; Sol. Husband, Liverpool.—Pet. f. Aug. 14.

**JAMES BELL and CHARLES WILSON**, Bradford, Yorkshire, stuff merchants, Sept. 3 and 27 at 11, Leeds: Off. Ass. Hope; Sols. Wood, Bradford; Carias & Cudworth, Leeds.—Pet. d. Aug. 9.

**HENRY KINROSS and JAMES SHAW**, Kingston-upon-Hull, omnibus proprietors, (carrying on business under the style of Kinross & Shaw), Aug. 29 and Sept. 26 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sols. England & Co., or Stamp & Jackson, Kingston-upon-Hull.—Pet. d. Aug. 10.

**FREDERICK AUGUST GROSS**, Newcastle-upon-Tyne, furniture dealer, Aug. 24 at half-past 12, and Oct. 12 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Hoyle, Newcastle-upon-Tyne; Mathews & Hoyle, 102, Leadenhall-street, London.—Pet. f. Aug. 1.

## MEETINGS.

*Maurice Evans and John Wm. Hoare*, Great St. Helens, London, and Trinity-wharf, Rotherhithe, Surrey, export wine merchants, Sept. 20 at half-past 11, London, pr. d.—*William Scamell*, Tottenham-court-road, Middlesex, leather seller, Aug. 28 at half-past 2, London, ch. ass.—*Adolph Worman*, Minorities, London, and Alfred-street, Bow-road, Middlesex, shoe manufacturer, Sept. 22 at 11, London, aud. ac.—*Samuel Baxter*, Minorities, London, and Glasshouse-street, Upper East Smithfield, Middlesex, ship's smith, Sept. 21 at 12, London, aud. ac.—*James A. Axtell*, *Wm. R. Knights*, and *Wm. Axtell*, White's-grounds, Bermondsey, Surrey, and St. Neots, Huntingdonshire, tanners, Sept. 20 at 1, London, aud. ac.—*Wm. Bound* the younger, Poole, corn merchant, Sept. 17 at half-past 11, London, aud. ac. and div.—*Wm. Hilliard*, Burghclere, Southampton, maltster, Sept. 20 at 11, London, aud. ac. and div.—*R. Crowley*, Brighton, Sussex, builder, Sept. 24 at 12, London, aud. ac.—*John Johnson* and *Charles S. Gilman*, Redcross-street, Barbican, London; Hackney-road-crescent, Hackney-road, Middlesex; and Norwich, shoe factors, Sept. 20 at 12, London, aud. ac.—*Jonathan Higginson* and *Richard Deane*, Liverpool, merchants, Aug. 29 at 11, Liverpool, aud. ac.—*George Smith*, *John M' Lachlan*, and *W. Blackburne*, Liverpool, tailors, Aug. 31 at 11, Liverpool, aud. ac. joint est. and aud. ac. sep. est. of *W. Blackburne*; Sept. 6 at 11, div. joint est.—*Jesse Lusty*, Liverpool, small-ware dealer, Aug. 31 at 11, Liverpool, aud. ac.; Sept. 6 at 11, div.—*Wm. Carr*, Liverpool, coal merchant, Aug. 29 at 11, Liverpool, aud. ac.—*Joseph Gardner*, Liverpool, ironmonger, Aug. 29 at 11, Liverpool, aud. ac.—*Colin M' Calman*, Liverpool, ship chandler, Aug. 31 at 11, Liverpool, aud. ac.—*Thomas Streeter*, Portsmouth; Hampshire, hotel keeper, Oct. 4 at 11, London, div.—*Samuel Treacher*, Fenchurch-street, City, licensed victualler, Sept. 27 at half-past 11, London, div.—*Charles Bray*, Alfred-terrace, Queen's-road, Baywater, Middlesex, ironmonger, Sept. 18 at 12, London, div.—*Wm. Bardgett* and *John Picard*, Mark-lane, City, corn factors, Sept. 8 at 11, London, fin. div. sep. est. of *John Picard*.—*Thomas Fenn* and *Wm. Thomas Fenn*, Norwich; Fore-street, Cripplegate, London; and Tullerle-street, Hackney-road, Middlesex, wholesale shoe manufacturers, Sept. 10 at 2, London, div.—*G. H. Lillie*, Black Swan-yard, Bermondsey, Surrey, tanner, Sept. 11 at 2, London, div.—*Benj. L. Barnett*, Gracechurch-street, City, shipowner, Sept. 8 at 12, London, div.—*William D. Hoad*, Rye, Sussex, shipbuilder, Sept. 8 at 12, London, div.—*John T. Burgon*, Bucklebury, wholesale hardwareman, Sept. 10 at 1, London, div.—*Charles James Sayer*, Francis-place, Holloway, Middlesex, boarding-house keeper, Sept. 8 at 11, London, div.—*James Nutt*, Leadenhall-street, City, jeweller, Sept. 11 at 12, London, div.—*George Clark*, Ashford, Kent, builder, Sept. 8 at half-past 11, London, div.

## CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*Gustavo Hermann Lillie*, Black Swan-yard, Bermondsey, Surrey, tanner; Sept. 10 at half-past 12; London.—*William Elsted*, Alresford, Hampshire, butcher; Sept. 6 at 2, Lon-

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THE JURIST.

LONDON, AUGUST 25, 1860.

At the Spring Assizes of Durham, in the present year, a case arose involving a moot and rather difficult point in the law of evidence, which has attracted considerable public attention, and given rise to a bill in Parliament by Sir G. Bowyer. We allude to the case of *Reg. v. Hay*, where the question arose as to whether, and how far, a Roman Catholic clergyman is privileged from being compelled to disclose, in a court of justice, matters confided to him by a penitent in confession. It was said at the time that Hill, J., denied the existence of the privilege, and committed the priest for contempt of Court for refusing to make the disclosure. A report of the case has now appeared in the recently published part of the Reports of Messrs. Foster & Finlason, (*Reg. v. Hay*, 2 *Fost. & F.* 4), which puts the matter in a very different light, and the report is accompanied by a learned note by the latter gentleman. The case is as follows:—

William Hay was indicted for stealing a watch. An

inspector of police stated, that from information he received he went to the house of the Rev. John Kelly, a Roman Catholic priest, from whom he received a watch, which the prosecutor identified as his. The Rev. Mr. Kelly was then called, and objected to take the oath, saying, "As a minister of the Catholic Church, I object to the part that states that I shall tell the whole truth." Hill, J., said—"The meaning of the oath is this: it is the whole truth touching the trial which you are asked—which you legitimately, according to law, can be asked. If anything is asked of you in the witness-box which the law says ought not to be asked, you would be entitled to say, 'I object to answer that question,' and the law would sustain the objection. You can, therefore, have no objection, as a loyal subject, and in duty to the laws of the country, to answer the whole truth touching the case which may be lawfully asked. Therefore you must be sworn." The witness was then sworn, and deposed that he received the watch produced; and on being asked from whom, answered, "I received it in connexion with the confessional."

His Lordship.—"You are not asked at present to dis-

close anything stated to you in the confessional; you are asked a simple fact—from whom did you receive that watch which you gave to the policeman?"

*Witness*.—"The reply to that question would implicate the person who gave me the watch; therefore I cannot answer it. If I answered it, my suspension for life would be a necessary consequence. I should be violating the laws of the church, as well as the natural laws."

*His Lordship*.—"I have already told you plainly I cannot enter into this question. All I can say is, you are bound to answer, 'From whom did you receive that watch?' On the ground I have stated to you, you are not asked to disclose anything that a penitent may have said to you in the confessional. That you are not asked to disclose; but you are asked to disclose from whom you received stolen property. Do you answer it, or do you not?"

Witness saying he really could not, was adjudged guilty of contempt of Court, and committed accordingly.

Previous to this case it was the common opinion that a confession to a clergyman of any denomination was not privileged from disclosure; for which several cases were usually relied on, especially *Rees v. Gilham*, (1 Moo. C. C. 186), which we cannot help thinking has been much misunderstood. With respect to Roman Catholic clergymen in particular, the right was expressly denied by the Irish Master of the Rolls in 1802, in a case of *Butler v. Moore*, (MacNally's Ev. 253). The authorities on this subject will be found in the treatises on Evidence. Now, in the case before us, Hill, J., draws a marked distinction between what is disclosed to the priest in confession, and any act done by or to him in consequence of that confession; holding the former privileged, but the latter not. As, however, Hill, J., does not assign any reasons for his decision, Mr. Finlason, in the note in question, proceeds to assign reasons for him, some of which seem sound, while others are open to much question.

Mr. Finlason begins by assuming, we believe rightly, that, previous to the Reformation, confessions to a priest were protected from disclosure, except perhaps when the matters disclosed amounted to high treason. This privilege, he contends, applied only to *sacramental* confession, accompanied by sacramental absolution. He then argues that the privilege, not having been taken away by any statute, necessarily subsists still, so far as regards clergymen of the Church of Rome, and also those of the Church of England. On this latter subject, however, it will be better to let him speak his own language:—"Although it is a common idea that the Church of England denies that confession is a sacrament, that is an error; for the answer in the Catechism as to the number of the sacraments, 'two only [as] generally necessary to salvation,' does not amount to a statement that there are only two sacraments; nor even that only two are ever necessary to salvation, but that only two are generally so. And it has been held, that, according to our law, marriage is a sacrament, (*Richards v. Dovey*, Willes, 622); and it seems, from some decisions, to follow that confirmation is so." We much regret that Mr. Finlason has not given these latter decisions; for the former part of the above sen-

tence will not bear much examination. In *Richards v. Dovey* the question was, whether a custom, that every man inhabiting one parish, who marries by license in another, shall pay a fee to the rector of the first, as if the marriage had been solemnised there, is good. The Court, consisting of Willes, C. J., Abney, Burnett, and Birch, J.J., held that it was not; and Abney, J., says, "Marriage is a sacrament, and therefore no fee ought to be paid for it." For this proposition he refers to six authorities, the two first of which—Lyndw. Prov., and a canon, A.D. 1222—were before the Reformation; and the rest are as follows:—*Anderson v. Walker*, (Lutw. 1080), where a prohibition was awarded to the Ecclesiastical Court, in which a party was libelled for not paying a fee for baptism, according to an alleged custom in a certain parish; *Toppeall v. Fervers*, (Hob. 178), where it was held that a custom in a parish that a passenger dying there should pay burial fees there, though buried elsewhere, is void; *Burdeaux v. Dr. Lancaster*, (12 Mod. 171; 1 Salk. 332), where it was held that by the common law no fees are due for baptism; and *The Dean and Chapter of Exeter's case*, (1 Salk. 334), that by the common law no fees are due for burials—a frail foundation for the assertion that "it has been held that marriage is a sacrament;" and, indeed, to be consistent in their argument, Abney, J., and Mr. Finlason must contend that "burial" is so too. The language of the Church Catechism, to which Mr. Finlason refers, we should have thought sufficiently explicit on the subject; but the Twenty-fifth Article of the Church of England puts the matter beyond question, for it says, "There are two sacraments ordained of Christ our Lord in the Gospel; that is to say, Baptism and the Supper of the Lord. Those five commonly called sacraments—that is to say, Confirmation, Penance, Orders, Matrimony, and Extreme Unction—are not to be counted for sacraments of the Gospel." There are some other theological matters in this note, into which we deem it needless to enter.

If Mr. Finlason is right in his notion, that the privilege from disclosure arises solely from the sacramental character of the confession, it follows, as an inevitable consequence, that a confession to a dissenting minister of any persuasion is not protected; and where the confession is made to a clergyman of the Church of England, the Court, before deciding the question of privilege, must determine the theological one, whether confession in the Church of England is necessarily *sacramental*. For our own parts, without undertaking to say positively what the law is upon the general subject, we cannot help thinking that a good suggestion is to be found in the following provision in one of the statutes of New York:—"No minister of the Gospel, or priest of any denomination whatsoever, shall be allowed to disclose any confessions made to him in his professional character, in the course of discipline enjoined by the rules or practice of such denomination." It is a maxim of law—"Quando lex aliquid alicui concedit, concedere videtur et id sine quo res ipsa esse non potest." In early times, when no religion but the Roman Catholic was tolerated by law, it was only with respect to the ministers of that religion that questions of this nature could present themselves. But at the present day, when all forms of Christianity are tole-



rated by law, and it is a well-known principle of them all that there are cases in which the spiritual advice of a minister of religion may properly be sought, the above maxim indicates that it should be allowed freely, and with safety to both parties, without entering into a theological inquiry as to the consequences which, in the eye of that particular creed, may be supposed to follow from it.

In the latter part of his note Mr. Finlason refers to some analogous cases of privilege which seem to support the ruling of Hill, J. To these may be added, that it has frequently been held, that although, when a prisoner has made a confession after an illegal inducement to confess has been held out to him, the confession is inadmissible, yet any discovery made in consequence of that confession—e. g. the finding of stolen goods—is perfectly admissible.

The judgment of Hill, J., on the first objection made by the witness in *Reg. v. Hay*, is also worthy of notice, as it may serve to remove a difficulty with respect to the form of oath administered in our courts of justice which has frequently presented itself to the minds of well-intentioned, but ignorant or unreflecting persons. Such parties labour under the impression that the oath binds them to tell everything—all they know, have heard, believe, think, or conjecture—respecting the matters in dispute. Not so—it only requires that the "evidence" which they give "shall be the truth, the whole truth, and nothing but the truth." Now, the question as to what is legal evidence is determined by the judge, not the witness, who is, therefore, only bound to speak the truth with relation to all matters which the judge adjudicates to be legal evidence in the cause.

### Correspondence.

TO THE EDITOR OF "THE JURIST."

SIR,—I venture to offer a few remarks on the article on the case of *Turner v. Wright* contained in your number of the 21st July, differing as I do from the conclusion to which the writer there arrives. I submit that, upon principle, a tenant in fee, with an executory devise over to another, cannot, in the absence of any intention to be gathered from the will, be restrained from committing waste other than equitable waste.

First, because the gift of the fee carries with it every power legally incident to it not expressly excluded by the donor. The donor must be deemed to be acquainted with the legal incidents of the estate conferred, and the use of the words of inheritance must be taken as equivalent to an express declaration of the intention of the donor to confer a power to commit waste.

It appears to me to be begging the question to argue that because the devisee cannot alien the land, therefore equity will interfere to prevent the alienation of the timber which is accessory to it. The same argument would prevent a tenant for life without impeachment of waste from exercising the power which those words confer, on the ground that the property was subsequently given over, with no variation in description, to the next taker.

Secondly, because, except in the case of equitable waste, which is on a different footing, equity has never interfered to restrain the exercise of the legal right. At law the action of waste lay only against tenants of particular estates, viz. tenants in dower by the curtesy, guardians, tenants for life and for years. Equity has interfered when, from technical grounds, as the intervention of an intermediate estate, the action could not be brought; but it has especially refrained from extending the nature of the relief, e. g. as in the case of

permissive waste, (see *Powys v. Blagrave*, 2 De G., Mac., & G. 448), and it has refused to interfere in the case of persons holding other estates than those against whom the action lay, e. g. in the case of tenant in tail after the possibility of issue extinct. (*Williams v. Williams*, 15 Ves. 419; 12 East, 210).

The case of tenant in tail after possibility of issue extinct is exactly analogous to the case in point; he cannot alien the lands, but the nature of his estate enables him to commit waste.

Equitable waste is defined to be destructive or malicious waste. The jurisdiction of equity in preventing waste of this kind does not depend only upon the existence of particular words implying the donor's intention that specified property, such as a mansion-house, should go over intact; though this is frequently a sufficient test. In cases where the description is perfectly general, and affords no specific indication of the intention, equity will interfere—e. g. to prevent the destruction of saplings, &c. It applies to cases for which the law affords no remedy at all; it is more analogous to the jurisdiction in the case of fraud, and proceeds on the assumption, that whatever legal rights the tenant in possession may possess, the donor could never have intended that he should deal with the property otherwise than as an absolute owner in the reasonable exercise of his powers could do.

That Lord Hardwicke was not quite accurate as to the jurisdiction of equity in cases of waste is shewn by the case of *Parterich v. Poulett*, (2 Atk. 383), in which a judgment of his, charging a tenant for life with permissive waste, was overruled; but neither in the case of *Robinson v. Letton*, nor in that before Lord Eldon, did the bare question which we are discussing call for a decision.

I am, Sir, your obedient servant,  
Lincoln's Inn, Aug. 1. H. B. C.

### REPORT OF THE COMMISSIONERS

APPOINTED TO INQUIRE INTO THE EXPEDIENCY OF BRINGING THE COURTS TOGETHER INTO ONE PLACE OR NEIGHBOURHOOD.

(Continued from p. 315).

72. If it could with justice be assumed that the fund in question had arisen exclusively from the profitable employment of the monies of the suitors of the Court of Chancery, yet, if it is not the property of those suitors, and cannot be claimed by them, we are unable to perceive on what reasonable grounds the discretion of Parliament should be fettered as to the mode of its future application. It has been justly observed by one of the witnesses examined before us, that the suitor in Chancery to-day may be a suitor at law tomorrow, and that next week, or next month, his property may become the subject of disposal by the Court of Probate. The due and proper maintenance of all the courts is, therefore, an object in which all suitors have a common interest. If the fund in question absolutely belongs to the suitors of one particular court, it cannot be alienated from them without a breach of the rights of property. If it does not belong to them, but is the mere child and creature of legislation, surely it is for Parliament, in its wisdom, from time to time to decide, in what manner, and for what purposes, it can be most usefully employed. It is true, that in times past this fund has been exclusively employed for the benefit of suitors in Chancery; but this may have been because the exigency of the moment rendered such an application thereof necessary or expedient. Circumstances, however, have now changed; new and varied exigencies have arisen; and the wants of the present day urgently call for a different appropriation.

73. The broad principle which we have thus stated—that is to say, the substantial identity of all the courts as component parts of one general system for the administration of justice—appears to us to have been emphatically asserted, and practically enforced and acted upon by Parliament, on several of the occasions which have been adverted to in the preceding narrative. Thus, when, in 1725, it was found that the money of the suitors of the Court of Chancery had been fraudulently misappropriated by certain Masters of that Court, in what manner, and at whose expense, were those suitors relieved? By the imposition of a tax, to which every suitor in a court of law, from the highest tribunals of the realm to the humblest court for the recovery of small debts, and every suitor in the courts ecclesiastical, was called upon to contribute. Again: when, in 1736, a further deficiency was discovered in the cash of the suitors in Chancery, caused by the fraudulent conduct of another of the Masters, the tax on the suitors at law and in the ecclesiastical courts was continued for a further term, in order to make good this deficiency. Once more: when, in 1749, it was found that the revenue of the office of Clerk of the Hanaper (an office exclusively belonging to the Court of Chancery) was insufficient to cover its expenses, and that the salaries and allowances payable out of such revenue were in arrear to the extent of more than 10,000*l.*, not only was the arrear discharged out of the surplus produce of the tax on the suitors in the common-law and ecclesiastical courts, but the tax was revived, and made perpetual, in order to provide a sufficient revenue for the future wants of the Hanaper Office, and at the same time to increase the income of the Master of the Rolls, which was considered to be “not adequate to the trouble, dignity, and importance” of this high office; and this tax continued to be levied until its abolition, in 1824, by the act 5 Geo. 4, c. 41. Thus, upon three separate occasions—when the suitors of the Court of Chancery were to be relieved, and their losses made good, when an important office of the court was to be maintained, and when the income of one of its highest judges was to be rendered adequate to the support of his dignity—Parliament deliberately called in aid the suitors of the courts of law and the ecclesiastical courts, and compelled them to contribute to the wants of the Court of Chancery. It is manifest that, except on the broad principle to which we have adverted, those suitors had not the remotest interest in the purposes to which their money was applied, and that neither individually nor collectively did they derive the slightest benefit from its application. If, nevertheless, it was consistent with justice that Parliament should take money directly from the pockets of the common-law suitors, and apply the money so taken for the exclusive benefit of suitors in Chancery, we are at a loss to perceive how it can involve the violation of justice for Parliament to apply a fund which, as we have shewn, does not, and never did, belong to the suitors in Chancery, and in which they can have at the utmost only a constructive interest, not for the exclusive advantage of any one class, but towards the furtherance of a general and comprehensive scheme, from which all suitors alike, whether at common law or in Chancery, will derive a common benefit.

74. But the theory which we have been considering involves two assumptions in matters of fact—first, that the fund with which we propose to deal (Fund B.) has arisen exclusively from a Chancery source, i. e. from the use of the monies of the suitors of the Court of Chancery; and, secondly, that those suitors will derive no benefit from the application of a portion of that fund to the erection of courts of law. To neither of these assumptions, however, can we give our assent.

(To be continued.)

don.—*Stephen Hook*, Farningham, near Dartford, Kent, grocer, Sept. 18 at half-past 1, London.—*Frederick Jacob Pillot*, Cannon-street, City, wine merchant, Sept. 22 at 11, London.—*Wm. Hilliard*, Burghclere, Southampton, maltster, Sept. 20 at 11, London.—*William Bound* the younger, Hanworthy, Poole, corn merchant, Sept. 17 at half-past 11, London.—*Samuel Baxter*, Minorities, City, and Glasshouse-street, Upper East Smithfield, Middlesex, ship's smith, Sept. 21 at 12, London.—*Charles Frank Boyce*, Melton Mowbray, Leicestershire, innkeeper, Sept. 17 at 11, London.—*Joshua Lattimore*, Sandridge, near St. Albans, Hertfordshire, timber merchant, Sept. 17 at 1, London.—*John Pearce*, Holborn-hill, Middlesex, woollen draper, Sept. 17 at half-past 12, London.—*Thomas Brooks*, Birmingham, innkeeper, Sept. 13 at 11, Birmingham.—*Thomas Payne*, King's Heath, Worcestershire, and Birmingham, tea dealer, Sept. 13 at 11, Birmingham.

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*Henry Lodge*, Huggin-lane, City, tailor.—*Charles Bray*, Alfred-terrace, Queen's-road, Bayswater, Middlesex, ironmonger.—*Thomas William Milner*, Queen-street, Cheapside, London, and Canterbury-grove, Lower Norwood, Surrey, surveyor.—*John Murley*, St. Chad's-wells, Gray's-inn-road, Middlesex, carriage builder.—*George Padmore* the younger, Northampton, shoe manufacturer.—*Michael Perry*, Bloomsbury-market, Oxford-street, Middlesex, passe-partouts manufacturer.—*Paul Sampson*, Hythe, Kent, boot maker.—*Edmund Jones*, Woodbine-villas, Bridge-road West, Battersea, Surrey, hosier.—*Henry Trenter*, Ipswich, Suffolk, butcher.—*Benjamin Abraham*, Taunton, Somersetshire, jeweller.—*Alexander Waite*, Berwick-upon-Tweed, draper.—*John Hughes*, Liverpool, licensed victualler.

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TUESDAY, Aug. 21.

#### BANKRUPTS.

**JOSHUA HYAMS**, Spencer-street, Clerkenwell, Middlesex, watch manufacturer, Sept. 4 at half-past 11, and Oct. 25 at 11, London: Off. Ass. Johnson; Sols. Messrs. Solomon, 23, Finsbury-place.—Pet. f. Aug. 17.

**PHILIP ARNOLD** and **JOHN ARNOLD**, Luton, Bedfordshire, straw-plait merchants, Aug. 30 and Oct. 5 at half-past 12, London: Off. Ass. Cannan; Sols. J. & J. H. Linklater & Co., 7, Walbrook, London.—Pet. f. Aug. 8.

**DAVID TEARLE**, Houghton Regis, and Luton, Bedfordshire, straw-plait dealer, Aug. 30 at half-past 1, and Oct. 11 at 1, London: Off. Ass. Whitmore; Sol. Mardon, 98, Newgate-street, London.—Pet. f. Aug. 15.

**JOSEPH CHADWICK**, Augustus-street, Regent's-park, Middlesex, stone merchant, Aug. 31 at 11, and Oct. 11 at half-past 12, London: Off. Ass. Whitmore; Sols. J. & J. H. Linklater & Co., 7, Walbrook, London.—Pet. f. Aug. 20.

**HENRY CROPLEY HAYLOCK**, Linton, Cambridgeshire, apothecary, Aug. 31 at 11, and Sept. 28 at 2, London: Off. Ass. Stansfeld; Sols. Kingsford & Dorman, 23, Essex-st., Strand, London.—Pet. f. Aug. 18.

**FREDERICK REDDALL**, Philpot-lane, Fenchurch-street, City, merchant, Aug. 31 and Sept. 28 at half-past 11, London: Off. Ass. Graham; Sols. Van Sandau & Cumming, 27, King-st., Cheapside, London.—Pet. f. Aug. 17.

**CHARLES CROSS**, Gutter-lane, City, silk warehouseman, Aug. 31 at half-past 10, and Oct. 3 at 2, London: Off. Ass. Graham; Sol. Harris, 34 A, Moorgate-street, London.—Pet. f. Aug. 20.

**WILLIAM M. TOWNSON**, Liverpool, licensed victualler, Sept. 4 and 25 at 11, Liverpool: Off. Ass. Turner; Sols. Atkinson & Bartlett, Liverpool.—Pet. f. Aug. 11.

**JOHN WILSON**, Sunderland, Durham, bootmaker, Aug. 30 and Oct. 10 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sol. Young, Sunderland.—Pet. f. Aug. 6.

**HENRY HORTON**, Fenchurch-street, City, merchant, Aug. 31 at 10, and Oct. 3 at half-past 11, London: Off. Ass. Stansfeld; Sols. Lewis & Lewis, 10, Ely-place, Holborn.—Pet. f. Aug. 20.

**WILLIAM DICKINS**, Daventry, Northamptonshire, shoe manufacturer, Aug. 31 at 1, and Oct. 4 at 12, London: Off. Ass. Stansfeld; Sols. J. & J. H. Linklater & Co., 7, Walbrook, London.—Pet. f. Aug. 21.

**DAVID TAYLOR M'PHERSON**, Noble-street, straw hat dealer, Aug. 30 at half-past 10, and Oct. 3 at half-past 1, London: Off. Ass. Graham; Sol. Reed, 3, Gresham-street, London.—Pet. f. Aug. 21.

**JOSEPH CLARKE**, Kidderminster and Bewdley, Worcestershire, tanner, (trading as Richard & Joseph Clarke), Sept. 3 and Oct. 1 at 11, Birmingham: Off. Ass. Kinnear; Sols. Best, Kidderminster; Reece, Birmingham.—Pet. d. Aug. 17.

**JOHN MOORHOUSE ANDREW**, Dewsbury, Yorkshire, innkeeper, Sept. 3 and 27 at 11, Leeds: Off. Ass. Hope; Sols. Walker, Dewsbury; Cariss & Cudworth, Leeds.—Pet. d. Aug. 16.

#### MEETINGS:

**Mark Warren**, Shoreditch, Middlesex, haberdasher, Sept. 5 at 1, London, last ex.; Sept. 10 at half-past 1, and ac.—**James B. Dunn** and **Edwin Francis A. Boyle**, New-street, Spring-gardens, Middlesex, dealers in iron, Sept. 10 at 1, London, and ac. joint and sep. ests.—**Thomas Penn** and **Wm. T. Penn**, Norwich, Norfolk; Fore-street, Cripplegate, London; and Tullerle-street, Hackney-road, Middlesex, shoe manufacturers, Sept. 4 at 1, London, and ac.—**Gustave H. Lilie**, Black Swan-yard, Bermondsey, Surrey, tanner, Sept. 4 at 2, London, and ac.—**Wm. D. Hoad**, Rye, Sussex, ship-builder, Sept. 6 at half-past 1, London, and ac.—**John T. Burgen**, Bucklersbury, City, wholesale hardwareman, Sept. 4 at half-past 12, London, and ac.—**James Nutt**, Leaden-hall-street, City, jeweller, Sept. 4 at 2, London, and ac.—**Edward Gardner**, Northampton, builder, Sept. 4 at 12, London, and ac.—**Wm. G. Goodwin**, Upper Marylebone-street, Middlesex, draper, Sept. 4 at half-past 11, London, and ac.—**Abraham Hammond** and **John Nevard**, Lee, Kent, builders, Sept. 4 at 11, London, and ac.—**Charles James** and **Henry John Evans**, Beer-lane, London, and Bermondsey-street, Surrey, coopers, Sept. 3 at 11, London, and ac.—**Matthew Shield**, Great Queen-street, Westminster, Middlesex, shipowner, Sept. 3 at half-past 11, London, and ac.—**Brafied Caswell**, Northampton, boot manufacturer, Sept. 6 at 12, London, and ac.—**Alexander Dalrymple Bell** and **Emil Brassert**, Goldsmith-street, City, silk fringe manufacturers, Sept. 3 at 1, London, and ac.; Sept. 14 at 12, div.—**Thomas Thorp**, Clapham-road, Surrey, linendraper, Sept. 3 at 12, London, and ac.; Sept. 14 at 12, div.—**Jas. Newton**, Grosvenor-park South, Camberwell, Surrey, hop merchant, Sept. 3 at 1, London, and ac.—**William Stephen Charles White Bassett**, Sheerness, Kent, grocer, Sept. 6 at 12, London, and ac.—**James Pettit**, Woolwich, Kent, carrier, Sept. 3 at half-past 11, London, and ac.—**Benjamin Gibbs**, Bermondsey-street, Southwark, Surrey, leather merchant, Sept. 6 at 11, London, and ac.; Sept. 13 at 2, div.—**H. Boughen**, Norwich, chemist, Sept. 10 at 12, London, and ac.—**John Waller**, Hitchin, Hertfordshire, dealer in oilcake, Sept. 6 at 2, London, and ac.—**John M'Alpine** the younger, Newington-road, Ball's-pond, Middlesex, bleacher, Sept. 6 at half-past 1, London, and ac.—**E. Cohnreich** and **A. Cohnreich**, Nassau-place, Commercial-road East, Middlesex, shoe manufacturers, Sept. 10 at 11, London, and ac.—**John Ashton**, St. Paul's-road, Highbury, Middlesex, builder, and Ring-cross, Holloway, Middlesex, coffee-house keeper, Sept. 6 at 1, London, and ac.—**Emanuel Maignot**, Newgate-street, City, photographic agent, Sept. 10 at 2, London, and ac.—**Morris Cohen**, Landport, Hampshire, dealer in glass, Sept. 10 at 2, London, and ac.—**Daniel Buchanan** and **Robt. Bonn**, Liverpool, merchants, Aug. 31 at 11, Liverpool, and ac.—**Stephen Constantine Galatti**, Liverpool, insurance broker, Aug. 31 at 11, Liverpool, and ac.—**Joseph Underhill**, Plymouth, Devonshire, ironmonger, Sept. 3 at half-past 12, Plymouth, and ac.; Sept. 17 at half-past 12, div.—**Rayley Middleton** and **John Middleton**, Leeds, Yorkshire, drapers, Sept. 3 at 11, Leeds, and ac.—**Henry Fridlington Kemp** and **William Shey**, Louth, Lincolnshire, distillers, Sept. 12 at 12, Kingston-upon-Hall, and ac. and div. sep. est. of **Henry Fridlington Kemp**.—**Edward Heseltine Old** and **Jas. Pearson**, Kingston-upon-

Hull, hat manufacturers, Sept. 12 at 12, Kingston-upon-Hull, and ac.—**George Allen**, Bardney, Lincolnshire, grocer, Sept. 12 at 12, Kingston-upon-Hull, and ac.—**Joseph W. Crauford**, Lincoln, grocer, Sept. 12 at 12, Kingston-upon-Hull, and ac.—**Henry William Larard**, Hull, Yorkshire, jeweller, Sept. 12 at 12, Kingston-upon-Hull, and ac.—**Wm. Sandon Spicer**, Kingston-upon-Hull, tobacconist, Sept. 12 at 12, Kingston-upon-Hull, and ac.—**George Seaton**, Kingston-upon-Hull, carrier, Sept. 12 at 12, Kingston-upon-Hull, and ac.—**G. Willson**, Lincoln, watchmaker, Sept. 12 at 12, Kingston-upon-Hull, and ac.—**Samuel Clabrough**, Kingston-upon-Hull, broker, Sept. 12 at 12, Kingston-upon-Hull, and ac.—**William Sharp** the younger, New Broad-street, City, underwriter, Sept. 13 at 12, London, div.—**Nathaniel Symons**, Cambridge-street, St. Pancras, Middlesex, ironfounder, Sept. 12 at 2, London, div.—**John Underwood**, M'Lean's-buildings, New-street-square, Shoe-lane, City, wholesale stationer, Sept. 12 at 1, London, div.—**Chas. Pavia**, Lime-street, City, merchant, Sept. 12 at 11, London, div.—**Richard Millar** the younger and **Edmund Lamburn Munn**, Primrose-street, Bishopsgate, City, wholesale oilman, Sept. 25 at 12, London, div. sep. est. of **Edmund Lamburn Munn**.

#### CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

**Edward Gardner**, Northampton, builder, Sept. 12 at 1, London.—**Benjamin Gibbs**, Bermondsey-street, Southwark, Surrey, leather merchant, Sept. 11 at 12, London.—**Emanuel Maignot**, Newgate-street, City, photographic agent, Sept. 12 at 12, London, div.—**Thomas Harrison**, Henley-upon-Thames, Oxfordshire, tailor, Sept. 25 at 12, London.—**George Joseph Sandford**, High-street, Marylebone, and Clerkenwell-green, Middlesex, linendraper, Sept. 25 at 2, London.—**Benjamin James**, Brierley-hill, Staffordshire, carrier, Sept. 13 at 11, Birmingham.—**Joseph Walker Crauford**, Lincoln, grocer, Nov. 7 at 12, Kingston-upon-Hull.

*To be granted, unless an Appeal be duly entered.*

**Samuel Bothwell**, Dorking Surrey, builder.—**Joel Fox**, Norwich, furrier.—**Henry Pike**, Newcastle-place, Edgware-road, Middlesex, tailor.—**J. Wellington Welch**, Manchester, warp sizer.—**Robt. Brown**, Great Driffeld, Yorkshire, brewer.

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The Queen has been pleased to grant unto Francis William Everitt Stiffe, Esq., of Old-square, Lincoln's-inn, barrister-at-law, her royal license and authority that he may use and bear the surname of Everitt, in lieu of the name Stiffe.

**THE POLICE COURTS.**—The following arrangements will take place in the metropolitan police courts consequent on the death of Mr. Hammill:—Mr. Mansfield, of Worship-street, will succeed Mr. Hammill at the Marylebone Court; and Mr. Alexander A. Knox has been appointed to the vacancy caused by the transfer of Mr. Mansfield.—*Times*.

The Right Hon. Sir William Erle, Knt., Lord Chief Justice of her Majesty's Court of Common Pleas at Westminster, has appointed the following gentlemen to be Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women:—**Richard Aubrey Essery**, of Swansea, Glamorganshire, in and for the county of Glamorgan; **Thomas Redfern** the younger, of Leek, Staffordshire, in and for the county of Stafford; **Julius Gaborian Shepherd**, of Luton, Bedfordshire, in and for the county of Bedford, also in and for the county of Hertford; and **John Griffiths Reynell**, of Staple-inn, in and for the city of London, also in and for the city and liberties of Westminster; and county of Middlesex.

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—Jurist, Jan. 30, 1858.

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H H

## GAZETTES.—FRIDAY, Aug. 24.

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ABRAHAM BUHRER, Skinner-street, Snow-hill, City, importer of foreign glass, Sept. 4 at half-past 11, and Oct. 12 at 12, London: Off. Ass. Cannan; Sol. Wells, 47, Moor-gate-street.—Pet. f. Aug. 4.

JAMES HENRY WATTS and JOSEPH WATTS, Woolwich, Kent, ironmongers, Sept. 5 at half-past 1, and Oct. 4 at 11, London: Off. Ass. Graham; Sol. Buchanan, 13, Basinghall-street, London.—Pet. f. Aug. 22.

THOMAS SPICER, Little Britain, City, oilman, Sept. 5 at half-past 12, and Oct. 4 at half-past 1, London: Off. Ass. Graham; Sols. Evans & Phillips, 72, Coleman-st., London.—Pet. f. Aug. 20.

JOSEPH JOHN RICHARD EYKE, George-yard, Milton-street, Cripplegate, City, carman, Sept. 3 and Oct. 4 at 1, London: Off. Ass. Graham; Sols. Lewis & Sons, 7, Wil-mington-square, London.—Pet. f. Aug. 21.

JOHN CROSS, Windsor, Berkshire, draper, Sept. 5 at half-past 2, and Oct. 3 at 11, London: Off. Ass. Stansfeld; Sols. Ashurst & Morris, 6, Old Jewry, London.—Pet. f. Aug. 21.

JOHN HUGHES, Basinghall-street, London, and Gresham-terrace, Queen's-road, Dalston, Middlesex, woollen ware-houseman, Sept. 5 at 11, and Oct. 3 at half-past 2, London: Off. Ass. Stansfeld; Sols. Van Sandau & Cumming, 27, King-street, Cheap-side, London.—Pet. f. Aug. 22.

JAMES HESELTINE, Norwich, hotel keeper, Sept. 5 and Oct. 10 at 12, London: Off. Ass. Graham; Sols. Miller & Co., Norwich; Sole & Co., 68, Aldermanbury, London.—Pet. f. Aug. 22.

THOMAS ROBERT LEWIS, Gould-square, Crutched-friars, City, merchant, Sept. 6 at 12, and Oct. 8 at 11, London: Off. Ass. Pennell; Sols. Lawrence & Co., 14, Old Jewry-chambers, Old Jewry, London.—Pet. f. July 7.

GEORGE ALLBONE DRAGE, Olney, Buckinghamshire, shoe manufacturer, Sept. 4 at half-past 12, and Oct. 8 at half-past 11, London: Off. Ass. Pennell; Sol. Abrahams, 17, Gresham-street, London.—Pet. f. Aug. 17.

WILLIAM FRANCIS and JAMES HOOPER, New Leather-market, Bermondsey, Surrey, leather factors, Sept. 4 at 11, and Oct. 2 at 12, London: Off. Ass. Lee; Sols. J. & J. H. Linklater & Co., 7, Walbrook, London.—Pet. f. Aug. 11.

CHARLES BRADLEY, Deepfields, near Bilston, Staffordshire, iron dealer, Sept. 7 and 28 at 11, Birmingham: Off. Ass. Kinnear; Sols. Smith, Birmingham; Coldicott & Canning, Dudley.—Pet. d. Aug. 22.

EPHRAIM JOBBINS, Gloucester, currier, Sept. 4 and Oct. 2 at 11, Bristol: Off. Ass. Miller; Sols. J. & H. Lovegrove, Gloucester.—Pet. f. Aug. 22.

RICHARD HORROCKS, Liverpool, baker, Sept. 7 and 25 at 11, Liverpool: Off. Ass. Bird; Sols. Neal & Martin, Liverpool.—Pet. f. Aug. 21.

JOHN BARBER, Manchester, machine maker, Sept. 6 and Oct. 9 at 12, Manchester: Off. Ass. Hernaman; Sols. Hulton & Brett, Salford.—Pet. f. Aug. 22.

## MEETING.

Joseph Edward Morris, Bristol, grocer, Sept. 20 at 11, Bristol, aud. ac.

## CERTIFICATES.

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John McAlpine the younger, Newington-road, Ball's Pond, Middlesex, bleacher, Sept. 15 at 12, London.—Elias Cohn-reich, Acher Cohnreich, and Israel Cohnreich, Nasseau-place, Commercial-road East, Middlesex, shoe manufacturers, Sept. 15 at half-past 12, London.—John Williams, Cardiff, Glamorganshire, draper, Sept. 18 at 11, Bristol.—William George Young, Bangor, Carnarvonshire, brewer, Sept. 12 at 11, Liverpool.

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Daniel Smith, Edinburgh, corn merchant.—George Gunn, Helmsdale, grocer.—James Connell, Glasgow, house factor.—Samuel Blaind, deceased, Dumfries, bone merchant.—James Kennedy, Glasgow, stationer.—John Millar, Airdrie, grain dealer.

## TUESDAY, Aug. 28.

## BANKRUPTS.

MICHAEL MULRENAN, Great Dover-street, Southwark, Surrey, leather dealer, Sept. 8 and Oct. 5 at 12, London: Off. Ass. Graham; Sol. Simpson, 13, Wellington-street, Southwark.—Pet. f. Aug. 27.

WILLIAM PERRIN and PETER PERRIN, Wellingborough, Northamptonshire, shoe manufacturers, Sept. 8 at half-past 11, and Oct. 10 at 2, London: Off. Ass. Graham; Sols. Makeison & Golding, 69, Lincoln's-inn-fields, London.—Pet. f. Aug. 22.

GEORGE ALMOND and RICHARD MANLOVE the younger, Luton, Bedfordshire, straw hat manufacturers, Sept. 12 at half-past 11, and Oct. 10 at half-past 1, London: Off. Ass. Stansfeld; Sols. Mason & Co., 7, Gresham-street, London.—Pet. f. Aug. 22.

LEWIS ROBERT POOLE and SAMUEL BRYAN, New Oxford-street, Middlesex, and Northampton, shoe manufacturers, Sept. 8 at 11, and Oct. 10 at 1, London: Off. Ass. Stansfeld; Sols. Hensman & Nicholson, 25, College-hill, London; Dennis, Northampton.—Pet. f. Aug. 23.

FRANK CASTELLI, Bury-court, St. Mary-axe, City, commission merchant, Sept. 11 at half-past 1, and Oct. 9 at 12, London: Off. Ass. Lee; Sols. Lawrence & Co., 14, Old Jewry-chambers, London.—Pet. f. Aug. 27.

THOMAS WALKER, Birmingham, provision dealer, Sept. 7 and 28 at 11, Birmingham: Off. Ass. Whitmore; Sols. Southall & Nelson, Birmingham.—Pet. d. Aug. 20.

JOHN COTTON, Smethwick, Staffordshire, shoemaker, Sept. 10 and Oct. 1 at 11, Birmingham: Off. Ass. Whitmore; Sols. Docker, Smethwick; Reece, Birmingham.—Pet. d. Aug. 24.

JOSEPH CORNS, Stourbridge, Worcestershire, soda-water manufacturer, Sept. 14 and Oct. 5 at 11, Birmingham: Off. Ass. Kinnear; Sols. Plunkett, West Bromwich; James & Knight, Birmingham.—Pet. d. Aug. 27.

REUBEN NEWTON, Derby, silk throwster, Sept. 11 and Oct. 2 at 11, Nottingham: Off. Ass. Harris; Sol. Preston, Nottingham.—Pet. d. Aug. 24.

FRANCIS BEARD, Weston-super-Mare, Somersetshire, builder, Sept. 10 and Oct. 8 at 11, Bristol: Off. Ass. Acraman; Sol. Prideaux, Bristol.—Pet. f. Aug. 20.

MOSES HINDLE BURROWS, Wakefield, Yorkshire, worsted spinner, Sept. 10 and Oct. 4 at 11, Leeds: Off. Ass. Hope; Sols. Wood, Bradford; Carias & Cudworth, Leeds.—Pet. d. Aug. 18.

WILLIAM BELL, Urpeth Mill, near Chester-le-street, Durham, miller, Sept. 6 at half-past 11, and Oct. 12 at half-past 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Harle & Co., Newcastle-upon-Tyne, and 20, Southampton-buildings, Chancery-lane, London.—Pet. f. Aug. 24.

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William Fenn, New Broad-street, City, underwriter, Sept. 20 at half-past 12, London.—John Faulkner, Commercial-road, Surrey, cab proprietor, Sept. 20 at 2, London.—John Wilson, Sunderland, Durham, shipowner, Sept. 19 at half-past 12, London.

*To be granted, unless an Appeal be duly entered.*

John Jeyes, Northampton, nurseryman.—Edward James Hopkins, Fishponds, Gloucestershire, draper.—John Morgan, Manchester, mineral merchant.—Joshua Eyre, Chorlton, Leigh, Lancashire, silk manufacturer.—Edw. Hewlitt Old and James Pearson, Kingston-upon-Hull, cap manufacturers.

## SCOTCH SEQUESTRATIONS.

Ross, Mitchell, & Co., Glasgow, merchants.—William Struthers, Uddington, joiner.—George Lawson, Glasgow, cabinet maker.

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## THE JURIST.

LONDON, SEPTEMBER 1, 1860.

In the case of *Hoghton v. Houghton* (15 Beav. 278, 321) an opinion is expressed which has given rise to much doubt in the Profession, and it may perhaps be useful to call attention to it, as, if it be unsound, the acting upon it seems likely to cause some practical mischief.

In the case above referred to, a deed settling family estates was set aside in equity, as having been obtained by undue influence, and was ordered to be delivered up to be cancelled. On the question being discussed whether a reconveyance of the legal estate was necessary, the Master of the Rolls said his impression was, that the deed, being by a competent Court declared void and cancelled, could not be afterwards set up or used in a court of law, and that a reconveyance was unnecessary. In the later case of *The Attorney-General v. Magdalen College, Oxford*, (18 Beav. 255), his Honor expressed his opinion to be, "that a deed which was delivered up to be cancelled, and which was marked 'cancelled' by this Court, put the parties in exactly the same situation as if no such deed had ever been executed." In *Sugden v. Croftland*, (3 Sm. & G. 192), Sir J. Stuart, V. C., expressed a similar opinion, and, as is stated in the report, (4 Weekly Rep. 343), on the authority of *Hoghton v. Houghton*. The view, therefore, has certainly a considerable amount of judicial authority in its favour.

We must own, however, that to us there appears considerable difficulty in supporting it. Though the jurisdiction of Courts of law and Courts of equity as to fraud is to some extent concurrent, the fields over

which their actions extend are by no means co-extensive. If every fraud which made a deed void in equity necessarily made it void at law, there would be less ground for doubting the correctness of the view in question; for it might be urged, with much shew of reason, that where a competent Court had decided that such fraud existed as would make the deed void in any court, all other Courts must act upon that sentence. It is plain, however, that a deed is often set aside by Courts of equity on grounds which would not affect its validity at law; and we apprehend that the case of *Hoghton v. Houghton* itself is an instance of this. The decision of a Court of equity setting aside a deed, therefore, does not involve a decision, even assuming the Court to have jurisdiction to decide, that it is void at law. The Court does not declare that no legal estate passed by the deed, whatever the effect of such declaration if made would be.

We apprehend, indeed, that under the Common-law Procedure Act, the fact of a deed under which the plaintiff claims having been declared void in equity would in general be a good defence by way of equitable plea; but this does not remove the whole of the difficulty. The decree makes the plaintiff in equity the beneficial owner. It may prevent the possibility of the legal estate being used against him, but how does it give him that legal estate? The Master of the Rolls appears to consider that a Court of law would refuse to look at the deed after it had been cancelled by a Court of equity; that, in fact, it would be of no more avail in any court than a blank parchment for any purpose whatever. But can this be so? It is difficult to see how the cancellation of the deed can have such effect. A Court of equity acts in personam, and we can conceive that a cancellation by a Court of equity would



have the same effect as if all the persons interested under the deed had been *sui juris*, and concurred in its cancellation; but we do not see how it can have more. Now, that effect, we apprehend, would be, that the deed, as regarded the covenants contained in it, would be at an end, but the legal estate would not be revested. Mr. Preston, in his note to *Shep. Touch. 69*, says, "As to deeds which pass an estate of freehold, it is now the settled rule of law, that no cancellation of the deed (Gilb. Eq. Cas. 285) can divest the estate." This, we believe, is in accordance with all the recent authorities; and the law was so laid down, without hesitation, by the Court of Exchequer in the very recent case of *Lord Ward v. Lumley*, (8 Weekly Rep. 184). Apart from the cancellation, the case must rest upon the declaration in the decree, that the deed is void in equity. Now, does that declaration amount to any more than this—that according to the principles of a Court of equity the deed has been improperly obtained, and that the equitable ownership is not affected by it? Except so far as the recent statutes have given a Court of equity power to transfer the legal estate, we apprehend it has no jurisdiction to do so. Assuming it to have jurisdiction to declare that a legal estate does not pass under an instrument, it is clear that in such a case as *Hoghton v. Hoghton* such a declaration could not be made, it being quite plain that the legal estate did pass. The declaration that the deed was void amounts, then, to a declaration, that, according to the principles of a Court of equity, the legal estate ought not to have been conveyed as it was; but how either this or the cancellation can enable a Court of law to shut its eyes to a deed which at law was originally valid, and to refuse to admit the legal estate to be where that deed placed it, we must, with all deference to the able judges who decided the cases above referred to, admit ourselves to be unable to see. The result which appears to follow from a decision that the legal estate has been improperly conveyed would seem to be, that it ought to be reconveyed. To rest upon the declaration and cancellation only, appears to us to be an unsafe application of the converse of the well-known maxim, that what ought to have been done shall be regarded as done. It appears to us a matter of regret that a rule of such a doubtful character should have been introduced and acted upon, when the Trustee Act of 1850, which applies to constructive trusts, appears in most cases to furnish a ready means of avoiding the question, without any additional expense.

### REPORT OF THE COMMISSIONERS

APPOINTED TO INQUIRE INTO THE EXPEDIENCY OF BRINGING THE COURTS TOGETHER INTO ONE PLACE OR NEIGHBOURHOOD.

(Continued from p. 322).

75. With regard, in the first place, to the fund itself, we have seen, that although the produce of the rates and duties imposed by the 12 Geo. 1, c. 33, was, in accordance with the provisions of the act, entered to a separate and distinct account in the books of the Bank of England, yet such produce was, in fact, blended with the other monies paid into the Bank on account of the suitors, and formed therewith one common and general fund, which was promiscuously used and applied towards answering their demands. The particular demands, to meet which the duties were imposed, were not finally ascertained until 1749; but in the meantime, viz. in July, 1739, the first investment of 35,000*l.* was made on Fund A., under the authority of stat. 12 Geo. 2, c. 24, to which we have before referred. The money thus invested was taken from the general

balance of cash then lying dead and unemployed in the Bank; and as it is in evidence before us, that while, on the 1st October, 1738, the total balance of cash in the Bank, out of which that investment was made, was only 181,825*l.* 6*s.* 3*d.*, there had been received up to that time, in respect of the duties in question, no less a sum than 37,501*l.* 4*s.* 9*d.*, it is clear that a portion of the latter sum, whether more or less, found its way into the stock thus purchased. The exact proportions in which the component parts of the common fund contributed to this investment it would be difficult, perhaps impossible, now to determine; nor for the present purpose would the inquiry be of any practical value, as enough has been said to shew that the Profit Fund B., with which we are proposing to deal, derives its origin from a mixed source, and has not arisen, purely and exclusively, from the monies of the suitors in Chancery. There is, however, one remarkable circumstance, bearing directly on the point under discussion, which we must not omit to notice. We have shewn that, in 1749, the sum of 49,510*l.* 17*s.* 4*d.* was carried over from the produce of the duties in question, for the purpose (with the aid of the produce of the investment of Lord Macclesfield's fine) of fully satisfying the Masters' deficiencies, which were then finally ascertained and settled at the sum of 100,871*l.* But it has been proved before us, that out of this sum, only 96,726*l.* has been actually paid over, the balance of 4145*l.* never to this day having been claimed by the suitors to whose account it then stood, and still remains, in the books of the court. Now, the act by which the duties were imposed expressly provided that any surplus thereof, not required for the purpose of satisfying the Masters' deficiencies, should be reserved for the benefit of the public, and should be applied to such uses only as should thereafter be directed by Parliament. The unclaimed balance of 4145*l.*, therefore, not having been so required, falls strictly within this reservation, and, with its accumulations, remains at the disposal of Parliament; and to this extent, at the very least, the accumulated fund has arisen from a common law source, and not from monies belonging or equitably appropriated to the suitors in Chancery. We think we are justified in treating this sum as having formed part of the earliest investment; and if we do so, and add thereto the produce of the investment half-yearly of the accumulated interest thereon from 1739 to the present time, at the rate of 3*l.* per centum per annum, the total amount would fall very little short of 150,000*l.*

76. From the other proposition which we have noticed above, viz. that the suitors in Chancery will derive no benefit from that part of the scheme which involves the erection of courts of law, we must equally withhold our assent. It has been proved by an overwhelming mass of testimony, that the suitors of all the courts suffer alike from the defects and inconveniences of the existing system. It must be remembered that the very same body of persons who, as solicitors, conduct the business of the suitors in Chancery, represent, as attorneys, the suitors at law, as well as in the Courts of Divorce and Probate and the High Court of Admiralty. Whatever, therefore, clogs their proceedings in the one character, indirectly affects those for whom they are, at the same time, acting in the other. We have examined several of the most eminent members of this body, and they have expressed their unanimous opinion, that as the existing separation and dispersion of the various courts and offices are the prolific sources of delay and expense, so their concentration in a central situation, and in close proximity to the Inns of Court, will greatly facilitate the transaction of business in all the courts, and will thus promote efficiency, economy, and dispatch in the general administration of justice. All classes of suitors suffer alike from the present evil—all will derive a common benefit from the proposed remedy.

77. For these reasons we are of opinion that Fund B. may be legitimately appropriated to the purposes of the proposed scheme, without interfering with the rights of property, or violating any trust which Parliament can be considered as having created, either expressly or by construction, in favour of the suitors of the Court of Chancery.

78. But another objection has been brought under our notice, which addresses itself, not to the lawfulness, but to the expediency of such appropriation; and this objection we shall proceed to consider with all the respect which is due to the learned and eminent person by whom it has been propounded.

79. It is objected, then, that by the abstraction of Fund B., and its dedication to other purposes, the Court of Chancery will, to the extent of the income of about 39,000*l.* per annum, which is now derived therefrom, be deprived of the power of reducing the fees paid by the suitors. It is conceded that those suitors have no legal right to the fund in question, either as individuals or as a collective body; that it does not belong to them in the sense of property; that it has not been impressed, by legislative enactment or otherwise, with any specific trust in their favour; and that if it were a legitimate application of the fund to employ it in building courts at all, there is no sound distinction to be drawn between courts of law and courts of equity. But it is said that the suitors possess a moral right to have the fund applied in the manner and to the purposes which will be most beneficial to them, and that they will gain a great deal more by having no fees to pay in the progress of their suits, than by the concentration and consolidation of the courts of law and equity. The controversy is, therefore, narrowed to the point of comparative benefit to the suitors.

80. Now, assuming, for the purpose of the argument, that the suitors in Chancery have a moral right to appropriate to their own exclusive benefit the income of a fund which has arisen, to some extent at least, from a tax on common-law proceedings, and confining our attention to the question of comparative benefit, we cannot assent to the proposition which has been above stated. Whether it is right to compel suitors to contribute towards the expense of the administration of justice by means of fees is a question on which there is much difference of opinion. Into that question we shall not enter, as it lies beyond the sphere of the inquiry which your Majesty has committed to us. We may well admit that, if it were possible, it would be desirable to relieve suitors from the payment of all fees of court, and that this remission would be an undoubted advantage to them, as would be every reduction in the actual cost of litigation. The existing fees, however, are by no means high; they have been of late years very largely reduced, and they form a very small proportion (not more than 8 per cent.) on the whole cost of litigation. If the income of Fund B. were wholly applied in the same direction, a further reduction might be effected of nearly half that amount. We cannot, however, consider this as an equivalent for the advantages which the suitors would derive from the proposed concentration; and we are assured by witnesses of great intelligence, of extensive and varied experience, and whose habits of intercourse with the suitors themselves render them more especially competent to form a correct judgment on a question of this nature, that the benefit to the suitors from such a remission of fees would be as nothing compared with the boon they would obtain from the proposed scheme, by reason of the greater economy and dispatch with which it would enable their business to be transacted. The providing of suitable courts and offices in which that business may be conveniently carried on has become a matter of urgent necessity; and we are assured that the total abolition of all fees of court would be scarcely felt by

the suitors in comparison with the gain which they would derive from the proposed concentration.

81. Assuming that, for the reasons above set forth, there is no valid objection in principle to the application of Fund B. towards the execution of the proposed scheme, it remains for us to state in what manner, and subject to what conditions, it may be made available for that purpose, with due regard to existing charges and incumbrances, whether on the capital or the income thereof.

And first as to the capital.

82. It will have been seen from the foregoing narrative, that Fund B. has been derived from the surplus income of Fund A. re-invested from time to time, so as to accumulate at compound interest; and that Fund A. represents such portion of the suitors' cash as has been invested in securities under the authority of the various acts of Parliament to which we have referred. On the 1st October, 1859, the cash so invested amounted to the sum of 2,264,744*l.* 1*s.* 10*d.*, and the securities purchased therewith to the sum of 2,613,300*l.* 4*s.* 8*d.*, the average rate of purchase being a trifle under 87 per cent. It is to these securities that the suitors must look for the repayment of their cash; and if the whole of the latter were now called for, and the securities were realised at the present market price, (say 93), there would be a profit of more than 150,000*l.* accruing to the State from the transaction. Thus—

Produce of 2,613,300 <i>l.</i> stock, at 93 .....	£2,430,424 16 0
Deduct suitors' cash, to be provided for as above .....	2,264,744 1 10
Surplus .....	<u>£165,680 14 2</u>

83. But if, on the other hand, the Court of Chancery were to close its doors, if every suitor were at once to claim his own, and if the securities were realised for the purpose of satisfying those claims at any price below 87, there would be a deficiency, more or less, according to the price of stock at the time of sale. This deficiency would have to be made good out of Fund B., the whole capital of which stands pledged to the suitors, by way of guarantee or indemnity, for the sufficiency of Fund A. to answer their demands.

84. It is scarcely necessary, however, to remark that the case we have supposed is not merely an extreme, but practically speaking an impossible, one. No reasonable person will act on the supposition that the Court of Chancery is about to close its doors, and to suspend the exercise of its ordinary functions; nor, except on that supposition, is it possible that the whole body of suitors should concur in a simultaneous demand for the repayment of the whole of their cash. Fund A., which represents that cash, has been the silent and steady growth of 120 years, during which the money paid into court by the suitors has constantly exceeded the money drawn out by them, the fund itself being, in fact, the gauge and measure of that excess. With the increase of population and wealth, the extension of commerce, and the multiplication of those complex and ever-varying relations which are perpetually springing up in a community like our own, there is likely to be a corresponding increase, rather than a diminution, in the business of the Court of Chancery, and in the funds from time to time placed under its charge. From the original foundation of Fund A. in 1739 to the present time there have only been seven occasions on which it has been found necessary to resort to a sale of stock, and on those occasions the necessity did not arise from the insufficiency of the cash in hand to meet the current demands of the suitors, but because, from accidental causes, the floating balance in the Bank of England had been reduced below the sum which it was considered right the Bank should hold in order to afford a proper remuneration for their trouble in keep-

ing the accounts of the suitors. The risk, therefore, of Fund A. being found insufficient to answer the demands of the suitors is practically none.

85. Against this risk, however, shadowy and unsubstantial though it be, the suitors have now, by law, the guarantee of Fund B.; and if that guarantee be taken away, as it will be if Fund B. is appropriated to the purposes of the proposed scheme, they are entitled to claim that another shall be substituted in its room. We think that such guarantee should be given in the shape of a parliamentary indemnity; the State, which takes Fund B. for an object of vast public utility, undertaking to stand in the place of that fund, so as to make good any deficiency in Fund A., should such deficiency ever arise.

86. If precedents were needed to justify an engagement on the part of the State, in itself so just and reasonable, a series of precedents may be found so apposite, not only to the particular point with which we are now dealing, but to the whole question which has been under our consideration, that we shall proceed to refer to them with some degree of minuteness.

87. In the year 1790 an act of the Irish Parliament (the 30 Geo. 3, c. 41) was passed, intitled "An Act for enabling the Lord High Chancellor and the Court of Exchequer respectively to make Orders on the Governor and Company of the Bank of Ireland for Payment, out of the General Fund of Monies belonging to the Suitors of the Courts of Chancery and Exchequer, of the Sum therein mentioned, towards building the Principal Courts of Justice of Dublin and Law Offices, and for amending an Act intitled 'An Act for better securing the Monies and Effects of the Suitors of the Court of Chancery and Court of Exchequer,'" &c. After reciting that the providing of convenient courts for the administration of justice in his Majesty's principal courts of justice in Dublin, and of offices for the keeping and preserving of the records thereof, and of the transaction of the business of such offices, would be of advantage to the public, and that it might require the sum of 30,000*l.* to complete the building thereof, the act in question directed, that "out of the general fund of the monies of the suitors of his Majesty's High Court of Chancery and Court of Exchequer," (which court at that time possessed and exercised an equitable jurisdiction in Ireland, as the Court of Exchequer did in England), deposited in the Bank of Ireland, there should be paid to the Lord Chancellor and Chief Judges, towards building such courts and offices, the sum of 30,000*l.*, by yearly payments of 10,000*l.* each. The 2nd section of the act provided, that if the general fund belonging to the suitors should at any time be reduced to the sum of 30,000*l.* thereby directed to be paid, then the Bank of Ireland should be reimbursed, "from and out of his Majesty's Treasury," the whole of the said sum of 30,000*l.*, or so much thereof as should have been paid by virtue of the act.

88. In 1794 another act of the Irish Parliament was passed, (the 34 Geo. 3, c. 6), intitled "An Act for enabling the Lord High Chancellor of Ireland and the Court of Exchequer respectively to make Orders on the Governor and Company of the Bank of Ireland for Payment, out of the General Fund of Monies belonging to the Suitors of the Courts of Chancery and Exchequer, of the further Sum therein mentioned, towards building the principal Courts of Justice at Dublin, and Law Offices, and for declaring" &c. This act recited the previous act of 1790, and that a further sum of 13,500*l.* might be required to complete the building of the courts and offices therein mentioned; and it accordingly proceeded to direct, that "out of the said general fund of the monies of the said High Court of Chancery or Court of Exchequer," deposited in the Bank of Ireland, there should from time to time be paid to the Lord Chancellor and Chief Judges such further sum,

not exceeding 13,500*l.*, as might be required towards building such courts and offices. The 2nd section of this act in like manner provided, that if the general fund belonging to the suitors should at any time be reduced to a sum not greater than the amount of the sums mentioned in the former act, and the said sum of 13,500*l.*, then the Governor and Company of the Bank of Ireland should from time to time be reimbursed, "from and out of his Majesty's Treasury," so much of the said sums as should appear to the Lords of the Treasury to be necessary in order to provide a fund sufficient to answer the demands of the suitors.

89. In 1832 an act of the Imperial Parliament was passed, (the 2 & 3 Will. 4, c. 32), intitled "An Act for the Erection of a Nisi Prius Court-house in Dublin," by which, after reciting the two last-mentioned acts of the Irish Parliament, and that the dispatch of business in the courts therein mentioned would be much facilitated by providing an additional court-house, in which causes might be tried at Nisi Prius during term, so as not to interrupt the business of any of the other courts, and in which the Court of Exchequer Chamber might also hold its meetings without interruption to the business of the Rolls Court, it was enacted, that any further sum, not exceeding 4000*l.*, might be advanced "out of the general fund of the monies of the suitors of the Court of Chancery and Court of Exchequer," for building the said court-house, and also for improving the accommodations of the present principal courts of justice in Dublin. The 3rd section of this act contained a similar provision, that if the general fund of the suitors should at any time be reduced to a sum not greater than the amount of the sums mentioned in the former acts, and the sum of 4000*l.* above mentioned, then the Bank of Ireland should be reimbursed, out of the Consolidated Fund of the United Kingdom, so much of the said several sums as should appear to the Lords of the Treasury to be necessary in order to provide a fund sufficient to answer the demands of the suitors.

90. In 1834 another act was passed, (the 4 & 5 Will. 4, c. 68), intitled "An Act to authorise an Advance out of the General Fund of Monies belonging to the Suitors of the Courts of Chancery and Exchequer in Ireland, towards the purchasing of Ground, and building thereon Offices necessary to the Courts of Justice in Dublin." After reciting the three last-mentioned acts, it states that it was necessary to insulate the courts of justice in Dublin, and the public record offices adjoining thereto, for the purpose of protecting the various records and public documents there deposited from the hazards of fire and embezzlement, to which they were continually exposed from the surrounding buildings, and that a further sum of 50,000*l.* was estimated to be required for the purpose of purchasing the necessary ground, and of erecting different offices connected with the said courts, and otherwise increasing the accommodation of such offices. It was accordingly enacted that the Bank of Ireland might advance to the Commissioners of Public Works, out of the Suitors Fund of the Court of Chancery or the Court of Exchequer, such sums, not exceeding 50,000*l.*, as they should require for the purposes before stated. The 2nd section of the act contained a similar provision to those contained in the previous acts, for reimbursing to the Bank, "from and out of his Majesty's Treasury," so much of the various sums mentioned in such former acts, and of the said sum of 50,000*l.*, as the Lords of the Treasury should consider necessary to provide a fund sufficient to answer the demands of the suitors.

91. Lastly, by an act passed in the year 1848, (the 11 & 12 Vict. c. 77), intitled "An Act to authorise the Application of Part of the Unclaimed Money in the Court for the Relief of Insolvent Debtors in enlarging the Court-house of the said Court," after reciting

that a sum of 67,000*l.* or thereabouts remained unclaimed in the said court, and which was then invested in Exchequer Bills, and that it had become necessary to enlarge the court-house in Portugal-street, Lincoln's-inn-fields, and for that purpose to purchase and alter an adjoining messuage and buildings, and that it was expedient to apply part of such unclaimed monies in defraying the expense which would be thereby incurred, it was enacted, that a sum not exceeding in the whole 21,300*l.* should be raised by sale of a sufficient part of such Exchequer Bills, and paid to the credit of the Commissioners of Woods, Forests, and Public Works, to be applied by them in paying the expenses of enlarging and fitting the court-house. The 4th section of the said act provided, that in case the money remaining in the Insolvent Debtors Court should be insufficient to meet the claims thereon, the deficiency should be made good out of the Consolidated Fund, to an extent not exceeding in the whole the amount which should have been raised and paid to the Commissioners of Public Works for the purposes before mentioned.

(To be continued).

#### PAYMENT OF WITNESSES IN CRIMINAL CASES.

THE following important presentment was made at the Liverpool Assizes:—

"The grand jury for the southern division of the county of Lancaster, at the August Assizes, 1860, desire to state their opinion that the reduction in the scale of allowances to witnesses at sessions and assizes, made under an order of Secretary Sir George Grey, bearing date the 9th February, 1858, has produced, and is likely to continue to produce, a most important influence upon the administration of justice and the state of crime.

"The scale of allowance in force previous to the above order may be described as recognising the general principle, that all persons attending under recognisances to give evidence in criminal prosecutions should receive reasonable compensation for their necessary expenditure, and, to some extent and in certain cases, for their loss of time.

"The scale was, no doubt, in some cases, abused by the granting of excessive and improper allowances, and the grand jury is of opinion that measures for the prevention of such abuses would have been proper and desirable.

"But the scale sanctioned by Sir George Grey proceeds upon a principle which is entirely opposite to that of the previous one, and which may be described as being, in substance, that a uniform and low scale of payment, not more than fairly adequate to the wages of an unskilled labourer, should be adopted in all ordinary cases, with a higher one in the case of members of the profession of the law or of medicine, and a lower one in the case of the police.

"The full effect of the new scale was not immediately felt, as its character did not at once become generally known. Its practical result is now clearly found to be—and those members of the jury who habitually discharge the ordinary duties of magistrates are painfully aware of the fact—that there is in the great majority of instances a decided and increasing disinclination to forward the administration of justice, by aiding in the apprehension and conviction of offenders, inasmuch as every person so doing now subjects himself not only to trouble and inconvenience, which probably he might be very ready to undergo, but to a direct pecuniary loss, which in many cases is a very serious one to himself and his family, and that such should be the case is generally felt to be grossly unreasonable and unjust.

"Persons who are robbed are now, in many cases,

most reluctant to prosecute, inasmuch as prosecution only subjects them to a certain serious loss, in addition to what they have already incurred; and with all persons, whose general or special duty it would be to aid in the detection of crime, there is a general disposition, more or less, to escape, if possible, the performance of a duty which subjects the person who fulfils it to an inevitable, and to him often a serious, pecuniary penalty.

"As a striking illustration of these facts, it may be stated, that in the case of the police, who receive their ordinary pay when in attendance at sessions and assizes, the further allowance is so inadequate to meet the additional expenditure which they unavoidably incur when living away from their own homes, that it is a great hardship upon them to be required to undertake the discharge of any duty involving attendance at sessions or assizes; and they naturally feel most reluctant to do so, unless when imperatively required, or unless they are held harmless against loss from some other source.

"In the very serious duty of proving previous convictions, generally performed by governors and other superior officers of gaols, and which often can be satisfactorily performed by no one else, the allowance is so inadequate to the needful expenditure incurred, that governors of gaols cannot ordinarily discharge this duty without serious pecuniary loss in every instance; and governors of gaols cannot now ordinarily be relied upon to discharge it at all unless served with a subpoena, which involves expense to the public, but does not save the governor from pecuniary loss. It may be further stated, that in the case of pawnbrokers, whose assistance is constantly needed in the tracing of stolen property, the grievances of the present system are very serious, and are the subject of strong complaint.

"The grand jury, while giving all due credit to the promoters of reformatories and schools, whose efforts the grand jury earnestly desire should not be counteracted by other causes, believe that the results of the circumstances to which they have adverted may be distinctly traced in this county as a material cause of the lighter calendars at assizes and quarter sessions, and the reduced number of inmates of our gaols, and as leading to the existence of a larger amount of criminal population at large and unchecked, engaged in the perpetration of crimes themselves, and in the corruption of others. A natural consequence appears to be the extension in this county, and probably elsewhere, of crimes of the more serious class, to which your Lordship adverted in your charge.

"And the grand jury finally declare their belief, that unless the scale to which they have adverted—introduced, it may be observed, by the sole authority of the Secretary of State, without any sanction of Parliament—be abandoned, and a more equitable system introduced, all efforts for the diminution of crime, and for the amelioration of society, will be rendered comparatively unavailing by a misplaced economy, and that the amount of serious crime shewn in the calendar for the present assizes, which your Lordship and the grand jury alike lament, is likely to continue, and probably to increase."

The bill sent down from the Lords to abolish the plea of "not guilty," and to substitute for it a statement that the prisoner wishes to be tried, has been thrown out by the House of Commons, on the motion for going into committee, by 37 to 19.—*Law Times*.

COMMISSIONER TO ADMINISTER OATHS IN CHANCERY.—The Lord Chancellor has appointed George Frederick Carnell, Gent., of Sevenoaks, Kent, to be a Commissioner to administer oaths in the High Court of Chancery in England.

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## GAZETTES.—FRIDAY, Aug. 31.

## BANKRUPTS.

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**DAVID SMITH**, Markyate-street, Hertfordshire, straw-plait manufacturer, Sept. 12 at half-past 1, and Oct. 12 at 12, London: Off. Ass. Stansfeld; Sols. Lawrance & Co., 14, Old Jewry-chambers, London.—Pet. f. Aug. 30.

**JOSEPH CLARKE**, Kidderminster and Bewdley, Worcestershire, tanner, (trading as Richard & Joseph Clarke), Sept. 19 and Oct. 17 at 1, London: Off. Ass. Stansfeld; Sols. Murray & Co., 11, Birch-in-lane, London.—Pet. f. July 6.

**THOMAS MANNING**, Aldersholt, Southampton, hotel keeper, Sept. 14 at 1, and Oct. 11 at half-past 1, London: Off. Ass. Whitmore; Sol. Richardson, 15, Old Jewry-chambers, Old Jewry.—Pet. f. May 31.

**WILLIAM HILLS**, Sandgate, Kent, draper, Sept. 14 and Oct. 12 at half-past 12, London: Off. Ass. Cannan; Sols. Ashurst & Co., 6, Old Jewry.—Pet. f. Aug. 1.

**JOHN COTTOM**, (and *not* JOHN COTTON, as before advertised), Smethwick, Staffordshire, bootmaker, Sept. 10 and Oct. 1 at 11, Birmingham: Off. Ass. Whitmore; Sols. Docker, Smethwick; Reece, Birmingham.—Pet. d. Aug. 24.

**JOHN COPE LENCH**, Birmingham, leather seller, Sept. 10 and Oct. 1 at 11, Birmingham: Off. Ass. Whitmore; Sol. East, Birmingham.—Pet. d. Aug. 28.

**WILLIAM JONES**, Nottingham, grocer, Sept. 11 and Oct. 4 at 11, Birmingham: Off. Ass. Harris; Sols. Cowley & Everall, Nottingham.—Pet. d. Aug. 28.

**WILLIAM THOMAS**, Cardiff, Glamorganshire, publican, Sept. 11 and Oct. 15 at 11, Bristol: Off. Ass. Acraman; Sols. Prideaux or Henderson, Bristol.—Pet. f. Aug. 29.

## MEETINGS.

*John Newton*, Old Malton, Yorkshire, horse dealer, Sept. 21 at 11, Leeds, div.—*Richard Dixon Asham*, Knottingley, Yorkshire, limeburner, Sept. 21 at 11, Leeds, div.—*Joseph Kershaw* and *Wm. George Kershaw*, Wakefield, Yorkshire, stonemasons, Sept. 21 at 11, Leeds, div.

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## TUESDAY, Sept. 4.

## BANKRUPTS.

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**SILVANO FRANCISCO LUIS PEREIRA** and **JOHN GRANT**, Great Tower-street, City, wine merchants, (carrying on business under the style or firm of Pereira & Grant), Sept. 14 at 2, and Oct. 17 at 1, London: Off. Ass. Pennell; Sols. Wild & Barber, 10½, Ironmonger-lane, Cheapside, London.—Pet. f. Sept. 3.

**RICHARD BUTTLE**, Long-acre, Middlesex, tailor, Sept. 15 at half-past 11, and Oct. 17 at 12, London: Off. Ass. Pennell; Sol. Godfrey, 5, South-square, Gray's-inn.—Pet. f. Sept. 1.

**WILLIAM PATMAN WATSON**, Hampstead-road, Middlesex, draper, Sept. 15 and Oct. 17 at half-past 12, London: Off. Ass. Pennell; Sol. Peekham, 40, Ludgate-street.—Pet. f. Sept. 3.

**JOHN FREDERICK KENT**, Croydon, Surrey, builder, Sept. 14 at 3, and Oct. 17 at 2, London: Off. Ass. Pennell; Sol. Tayloe, 4, Scott's-yard, Cannon-street, City.—Pet. f. Sept. 3.

**FREDERICK TAYLOR BRASSINGTON**, Burslem, Staffordshire, shoemaker, Sept. 14 and Oct. 5 at 11, Birmingham: Off. Ass. Whitmore; Sol. Smith, Birmingham.—Pet. d. Sept. 3.

**PHILIP MILNS**, Stamford, Lincolnshire, bootmaker, Sept. 18 and Oct. 9 at half-past 11, Nottingham: Off. Ass. Harris; Sols. Law, Stamford; Hodgson & Allen, Birmingham.—Pet. d. Aug. 31.

**JAMES SEASON**, Leeds, Yorkshire, cabinet maker, Sept. 17 and Oct. 11 at 11, Leeds: Off. Ass. Hope; Sols. Caris & Cudworth, Leeds.—Pet. d. Aug. 25.

**CHARLES DENES**, Liverpool, importer of foreign merchandise, Sept. 14 at 11, and Oct. 11 at 1, Liverpool: Off. Ass. Turner; Sol. Pemberton, Liverpool.—Pet. f. Aug. 24.

## MEETINGS.

*John Ridgway*, Liverpool, merchant, Sept. 14 at 11, Liverpool, aud. ac.; Sept. 27 at 11, div.—*Joseph Burrows*, Woolton, near Liverpool, tailor, Sept. 14 at 11, Liverpool, aud. ac.; Sept. 27 at 11, div.—*John George Claus*, Liverpool, merchant, Sept. 14 at 11, Liverpool, aud. ac.; Sept. 27 at 11, fin. div.—*Sylvester Matison*, Liverpool, butcher, Sept. 17 at 11, Liverpool, aud. ac.; Sept. 25 at 11, div.—*Edmund Whittenbury Robinson*, Liverpool, cotton broker, Sept. 14 at 11, Liverpool, aud. ac.; Sept. 27 at 11, div.—*George Joseph Sandford*, High-street, Marylebone, and Clerkenwell-green, Middlesex, linendraper, Sept. 27 at 11, London, div.—*William Herring*, Liverpool, confectioner, Sept. 25 at 11, Liverpool, div.

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*Frederick George Orchard* and *George Frederick Cunningham*, Brick-lane, Old-street, St. Luke's, Middlesex, tent manufacturers, Sept. 27 at 12, London.—*John Austen*, Pierrepont-row, Islington, Middlesex, leather seller, Sept. 26 at 1, London.—*Thomas Porter*, Beauvoir-place, Kingsland, Middlesex, chair maker, Sept. 27 at 1, London.—*Francis Bennett John Read*, Leadenhall-market, City, and Upper North-Street, Bethnal-green, Middlesex, butcher, Sept. 27 at half-past 12, London.

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*William Inglis*, junior, Leith, merchant.—*David Calman Martin*, Dundee, rope maker.

**DEATH OF THE TREASURER OF LINCOLN'S-INN.**—John Herbert Koe, Esq., Q. C., the treasurer of Lincoln's-inn for the current year, and Judge of the County Court Circuit No. 37, died at his residence, No. 33, Gloucester-place, on Monday morning. The deceased gentleman was called to the bar on the 22nd November, 1810, and was made a bench of Lincoln's-inn in 1842.

The Right Hon. Sir William Erle, Knt., Lord Chief Justice of her Majesty's Court of Common Pleas at Westminster, has appointed George Penfold Holmes, Gent., of Arundel, Sussex, to be one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women, in and for the county of Sussex.



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## THE JURIST.

LONDON, SEPTEMBER 8, 1884.

AN incident of an unusual and unpleasant nature, which took place at the Surrey Summer Assizes of this year, has attracted a share of the public attention. The high sheriff of that county, Mr. Evelyn, is a gentleman of family and fortune, and a descendant of the celebrated Evelyn. When the grand jury, having concluded their business, came into court with the last of the bills, Mr. Justice Blackburn dismissed them, thanking them in the usual manner for the assistance they had rendered to the administration of justice. The high sheriff of the county had requested the judge to pay the compliment to the gentlemen who had attended, but who had not actually served on the grand jury, of thanking them for their attendance, as many of them had come a considerable distance to perform the duty; but the judge said he considered it unnecessary to do so, and it is understood that the high sheriff expressed his intention of thanking them himself. The judge had addressed the grand jury, and was about to proceed with a trial that was before the Court, when the high sheriff rose, and, addressing a number of magistrates who were on the bench, said that he also—

Mr. Justice Blackburn interposed, and said that he could not allow the high sheriff to proceed, and he must request him to desist. The high sheriff seeming determined to go on, the judge laid his hand on his shoulder, and said he could not permit him to speak, and he must request him to sit down. The high sheriff still per-

sisted, and Mr. Justice Blackburn threatened that if he did not desist he would fine him. This had no effect; the high sheriff would not sit down, and Mr. Justice Blackburn said, "Mr. High Sheriff, I feel myself called upon to fine you 500l." His Lordship then directed Mr. Avory, the deputy clerk of assize, to record the fine. The imposition of the fine did not have the effect of inducing the high sheriff to desist, and Mr. Justice Blackburn then threatened to commit him for contempt of Court, and interfering with the administration of justice. The high sheriff then resumed his seat.

This event naturally caused great sensation among the magistrates, and also among the bar. It is reported that a correspondence passed, in which Mr. Justice Blackburn offered to remit the fine, and that Mr. Evelyn, in answer, only sent a cheque for the money. This, however, seems apocryphal; at least, we have not been able to trace it to any authoritative source. Be that, however, as it may, the high sheriff and his friends brought the matter before the other judge of assize, Lord Chief Justice Cockburn; and the result was, that at a later period of the day the high sheriff entered the Crown Court, and, standing beside Mr. Justice Blackburn, read a written apology for his conduct, which Mr. Justice Blackburn accepted, declaring that he had no personal feeling in the matter, and remitted the fine.

This took place on the 3rd August, and the affair was supposed to be at an end, the more especially as the high sheriff, with the concurrence of the justices of assize, left the town a few days after; but not so. On the 13th August the following placard was posted on

the outside of the court in which, the criminal business having been disposed of, Mr. Justice Blackburn was trying causes:—

"To the freeholders and inhabitants of the county of Surrey.—Gentlemen, on Friday, the 3rd August, Mr. Justice Blackburn, in my presence, but without addressing himself to me, ordered that part of the court which is appropriated to the public to be cleared, at a time when perfect quietness prevailed among the public who were then present according to custom. From that time the public have been barred out from the court where Mr. Justice Blackburn presides, and the prisoners have been tried and causes heard without the possibility of the law being fulfilled, which requires that 'so many as will, or can,' shall 'come so near as to hear.' As your sheriff, and feeling that the general dissatisfaction is well grounded, it is my duty to record my protest against this unlawful proceeding, and I have given directions that the court shall be open again to the public, according to the custom and the law. All persons, so long as they conduct themselves with decorum, have a lawful right to be present in court, and I hereby prohibit my officers from aiding and abetting any attempt to bar out the public from free access to the court....

"I am, gentlemen, your faithful servant,

"WILLIAM JOHN EVELYN, Sheriff."

The judges, upon this, commanded the high sheriff to attend in that court next day. Accordingly, at nine o'clock on the 14th, the high sheriff, in court dress, came into court, and was quickly followed by Lord Chief Justice Cockburn and Mr. Justice Blackburn, in their robes, escorted by their marshals and officers.

The Lord Chief Justice then called upon the high sheriff to state whether the placard that had been posted outside the walls of the court had been placed there by his authority.

The High Sheriff replied that it had.

The Lord Chief Justice then inquired what explanation he had to give for such a proceeding.

The High Sheriff then rose, and bowing to their Lordships and the Bar, of whom there was a full attendance, said he was glad to have that opportunity of offering an explanation of the course he had pursued in publishing the placard which was now the subject of remark. That course he had not taken without deliberation, and he was bound, with the greatest respect and deference to their Lordships, to affirm that he believed he had discharged his duty to the county of Surrey as the high sheriff appointed by her Majesty. He proceeded to say that Mr. Justice Blackburn had ordered the court to be cleared of several of the audience, and that the officers effectually executed the command. This, he respectfully contended, was an illegal act, and had the effect of invalidating the verdicts which had been afterwards returned; and this being so, he considered it obligatory on him to do what he believed the duties of his office required at his hands—viz. to assert the illegality of the course pursued by the learned judge, and to command his officers not again to obey such orders from the Court. The high sheriff then stated that he had left the town on Thursday with their Lordships' sanction, that he had departed on terms

of amity and good feeling with their Lordships, and he now distinctly disavowed, on his honour as an English gentleman; the least intention to offer any personal insult to Mr. Justice Blackburn. [Mr. Justice Blackburn bowed his assent to this remark.] He could only say, in conclusion, that he desired to treat the Court with all respect and submission, and that the step he had taken was taken upon a sound conviction, that in ordering an English court of justice to be cleared of the auditory, the learned judge had assumed an illegal authority, and one which he (the high sheriff) felt bound to disobey, as the chief officer of the county.

Their Lordships having briefly consulted,

The Lord Chief Justice said that the Court had heard with anxiety and sorrow the statement which the high sheriff had addressed to them, amounting, as it did, to an entire justification of what their Lordships, as her Majesty's judges of assize, sitting as the representatives of the Sovereign, felt to be a most improper, unlawful, and unseemly contempt of their office and of the administration of justice. The high sheriff had most unquestionably mistaken the law to the utmost, and he (the Lord Chief Justice) now declared that the power and authority of her Majesty's judges, acting in pursuance of her Majesty's commission, were perfectly well defined and established, and that the course taken by his learned brother was one which he had the most undoubted right to adopt. His Lordship said that he at once conceded that English courts of justice were open to the public in the fullest sense, and he trusted they ever would remain so; but it was going far beyond either law or necessity to avow, as the high sheriff had done, that there was no power reposed in the presiding judge to order such modifications of the arrangements of the court as were indispensable to that which it was the office of a judge to carry out—viz. the efficient administration of justice. His Lordship then adverted to the great structural inconvenience of the courts in which the judges had presided, and to the fact that his learned brother had ordered the lower part of the court, open to the street, and not the other parts of the court, to be cleared, because the examination of witnesses in criminal cases, when prisoners were standing on their trial, was inaudible to the court and jury, and this was surely a transparent necessity for the order which his learned brother had conveyed to the officers of the high sheriff. His Lordship then observed that the high sheriff had not made the least complaint or remonstrance before he left the assize town, and stated that the Court were nevertheless perfectly assured that the high sheriff, who was an honourable English gentleman, neither had intended nor was capable of offering any personal indignity to her Majesty's judges; but the course the high sheriff had pursued was clearly a painfully contumacious contempt of the Court as such, and a most serious reflection upon the authority of the judges' commission, which emanated from the Throne, and demanded, especially from the high sheriff, as one of her Majesty's important officers of justice, obedient and respectful observance.

The Lord Chief Justice then fined the high sheriff 500*l.*, and the fine was immediately recorded.

Two days after this, on the 16th August, a letter from the high sheriff appeared in *The Times* newspaper, from which the following is an extract:—

"I must reiterate, that on the 3rd August, at the Crown Court at Guildford, the whole of the space appropriated to the public was entirely cleared, and from that date to Monday, the 13th August, when I interfered, that space was empty. The only entrances left open were, first, the entrance for counsel, witnesses, jurors, and officials; and, secondly, the judges' entrance; and numerous complaints were made to me on the subject. I cannot but maintain that I was substantially right in the course taken."

On the 22nd August a letter appeared in *The Times*, addressed to the editor of that paper, from Mr. Avory, the associate on the Home Circuit, in reply to the above:—

"Sir,—My attention having been called to the letter of Mr. Evelyn, the high sheriff of Surrey, inserted by you in *The Times* last week, it may, perhaps, be as well that the public should learn from an official source the causes which led to the order of the presiding judge, that the public should be excluded from a particular part of the Crown Court (so called) at Guildford during the recent assizes.

"As deputy clerk of assize and clerk of the Crown, I have been during many assizes officially present in the Crown Court at Guildford, and I have on no one occasion been there without hearing most grievous and oft-repeated complaints of the extreme and painful difficulty of conducting the public business with decorum, owing to the disgraceful state of the 'barn' provided as a court for the administration of justice. Without a plan it is very difficult to convey a notion of the arrangements of this 'barn,' which, at one end, consisting of two arches, is open to and actually adjoins the public paved road, and I must therefore content myself with saying that about one-third of the whole area of the 'barn' is separated from the rest by a wooden barrier, and is appropriated as standing room (there not being a single seat in it) for a continually changing and noisy crowd, finding ingress and egress through the open end of the 'barn.'

"The other two-thirds are occupied by judge, counsel, jury, and officials, and by seats for magistrates and for the general public.

"The standing room which I have referred to above being the space next adjoining to the open street, it was found impossible to prevent the crowd from moving about and making a great clatter of feet; and, in fact, the din and disturbance were so great that it was extremely difficult to hear or be heard. Add to this the noise (in spite of straw laid down to prevent it) made by heavy country waggons and vehicles of all kinds passing along the paved road at the open end of the 'barn,' and you may readily understand that the proceedings should be frequently absolutely stopped until the noise had subsided.

"On the day referred to by Mr. Evelyn, the 3rd August, the tumult was so great that the effort to hear and be heard was of the most painful kind, and I was really astonished that the judge did not order the whole court to be cleared of the public; but it was not until he had time after time commanded silence, and found that he did so without the slightest result, except for a few minutes, that he gave directions to have the standing room above referred to cleared of its noisy occupants.

This was done, but the public was left undisturbed in possession of every seat in the court, and of the whole of the standing room in the other two-thirds of the court, and they attended daily in considerable numbers until the end of the business. Mr. Evelyn's statement, then, that 'the whole of the space appropriated to the public was entirely cleared and remained empty,' should, therefore, be read as follows:—

"That portion of the court in which there were no seats provided for the public, and in which a noisy crowd continually disturbed the public business, was entirely cleared, but the orderly part of the public continued in possession of the excellent accommodation provided by the justices of Surrey, and a crowd of persons, sufficient to create difficulty in passing and re-passing, continued to attend and take great interest in the proceedings. On and after the 3rd August many orderly stragglers might also have been seen in the space which had been ordered to be cleared."

"I am, Sir, your obedient servant,

"HENRY AVORY,

Deputy Clerk of Assize, Home Circuit.

"10, King's Bench-walk, Temple."

Such is the full account of this proceeding, in which we have no hesitation in pronouncing the high sheriff wrong throughout. Mr. Evelyn is a gentleman much, and we believe deservedly, respected in the county of Surrey, and it is said that, in compliment to him, the gentlemen of that county attended in much larger numbers than usual at the assizes in question. If, therefore, the affair had ended with his apology and the remission of the fine on the 3rd August, it might have been imagined that the previous conduct of the high sheriff, however illegal and indecorous in itself, was a mere error in judgment, arising from a cause creditable to him as a man—namely, the desire to express his gratitude to those gentlemen who had attended for the special purpose of doing honour to his shrievalty. But the issuing the placard is an act of a very different nature, and is one which, taken in connexion with the former part of his conduct, compels us to put a very different interpretation on the whole. There is a report that this last act was done under the advice of counsel; at all events it was done after the lapse of ten days, and consequently cannot be set down to precipitancy or want of time for consideration. We do not stop to inquire whether Mr. Justice Blackburn ought to have thanked those gentlemen who were not sworn on the grand jury—a course, we believe, unusual—or whether Mr. Evelyn is correct in his statement—in which, however, he is contradicted both by the Lord Chief Justice and Mr. Avory—that Mr. Justice Blackburn excluded the public from court. Assuming, for the purpose of the argument, that Mr. Justice Blackburn acted indiscreetly, or even illegally, in respect to both these matters, that forms no justification for Mr. Evelyn. If a judge of assize neglects or oversteps his duty, the constitution has provided remedies; but he is not to be publicly called to account, and have his acts overruled before his face, by the high sheriff, who is his subordinate, and indeed, in some sense, his servant for the time being. The high sheriff has, indeed, precedence in his own county, but that does not absolve him from the duty of obedience and respect to his Sovereign, or the judges of assize who represent that Sovereign—"In presentia majoris potestatis, minor potestas cessat." (Jenk., cent. 5, cas. 53). We hope that this affair is now at an end, and

that we shall never again have to record a similar instance of insubordination to constituted authority in any of those whose peculiar duty it is to wait upon it and execute its commands.

### Correspondence.

#### REGISTRY OF JUDGMENTS.

*Lord St. Leonards' new Law of Property Act.*

TO THE EDITOR OF "THE JURIST."

SIR,—In my letter published in "THE JURIST" of the 11th August, 1860, I stated that "a reference must be made to the execution-book in every case of a registered judgment being found." This statement now requires some correction, as the registrar has, on the suggestion of Lord St. Leonards, entered a memorandum on the register of judgments when an execution is registered, and the date of such registering.

Therefore a searcher will have notice on the judgment register if he is affected by an execution, and will not find it necessary to examine the register of executions unless he wishes to procure the particulars relating to the execution referred to.

But on searching the local registers of Middlesex and Yorkshire for judgments, a purchaser must take the particulars of the creditor's name, and examine the register of executions kept in the Common Pleas in the name of such creditor, before he can ascertain whether he is affected by a judgment, as no memorandum to shew that execution has issued can conveniently be made in the local register.

It must be borne in mind that a judgment entered up before the 23rd July, 1860, will still be binding, although no execution has been issued on it, as the act is not retrospective.

I would also call the attention of the Profession to a *convenient alteration in the practice of entering satisfaction.*

The 23 & 24 Vict. c. 115, provides, as to Crown debts, that the provisions of sects. 195, 196, and 197 of the 16 & 17 Vict. c. 107, shall be extended to *all* bonds to the Crown; therefore a certificate (*instead of a judge's order*) must be obtained in all cases to enter satisfaction; and as to judgments, an acknowledgment in the form provided by the act.

I am, Sir, yours obediently,

JAMES PARK,

Registrar's Chief Clerk.

Serjeants' Inn, Aug. 31, 1860.

#### REPORT OF THE COMMISSIONERS

APPOINTED TO INQUIRE INTO THE EXPEDIENCY OF BRINGING THE COURTS TOGETHER INTO ONE PLACE OR NEIGHBOURHOOD.

(Continued from p. 331).

92. These precedents appear to us to be conclusive, not only on the question immediately before us as to the propriety of a guarantee by the State to the suitors, but on the larger question which we have above discussed. We have already shewn that common-law suitors have been repeatedly taxed for the exclusive benefit of suitors in Chancery. The precedents last cited shew that funds belonging to suitors in Chancery have been repeatedly applied by Parliament for the exclusive benefit of suitors at law. We think no reasonable doubt can remain as to the moral right to appropriate the profits of a mixed fund, not for the exclusive benefit of either one class or the other, but for the common benefit of both.

Next as regards the income.

93. We have shewn that the income arising from each of the Funds A. and B. is charged with various annual

payments of large amount, for salaries, pensions, compensation allowances, and other miscellaneous purposes, the surplus income, after making all such payments, being carried over to "The Suitors' Fee Fund Account," (Fund C.) We have also shewn that for the last year, ending November, 1859, the aggregate income of all the funds, A., B., C., and D., amounted to 223,764*l.* 1*l.* 3*d.*, while the aggregate expenditure was 220,721*l.* 13*s.* 8*d.*, leaving a surplus of only 3042*l.* 17*s.* 7*d.* It is manifest, therefore, that if the capital of the two Funds B. and D. be appropriated as proposed, the income arising therefrom, amounting to 45,000*l.* per annum, will be withdrawn from the common Fund C., and instead of a surplus, there will be a large deficiency. It is true, that out of the whole expenditure above mentioned, no less a sum than 74,396*l.* 6*s.* 3*d.* consists of annual payments for compensations to the holders of abolished offices; and it is estimated that these payments are diminishing at the rate of more than 2000*l.* per annum, by the falling in of existing lives; so that in a very few years the deficit will be thereby made good, and the infant Fund C. will right itself. We do not here refer to salaries and pensions which, as they drop, will, in the natural course of things, be replaced by others, and the total amount of which may even be increased, as the increasing business of the court may from time to time render necessary an augmentation of its personal staff; but we are speaking exclusively of terminable annual charges, which in the course of a few years will entirely cease. In the meantime, however, and until the fruits of this process of reduction have been fully realised, means must be provided to meet the charges to which the fund is now subject, and to prevent the machinery of justice from being brought to a stand.

94. We are of opinion that this temporary deficiency should be made good by the public, by means of an annual payment from the Consolidated Fund. It appears to us that the providing suitable courts and offices for the due and convenient administration of justice is an object of supreme national importance, and involving the weightiest national obligations; that it is, in fact, one of the primary and paramount duties of the State. If its fulfilment involved even a large and permanent addition to the public burthens, we humbly conceive that the State could not with propriety shrink from the obligation. But we are happy to say that the charge we recommend to be imposed would not only be extremely moderate in amount, but may also be temporary in duration, as will appear by the following statement.

95. Assuming that the scheme which we have recommended should be adopted and carried into effect, and that the cost of acquiring the necessary site, and erecting thereon the proposed buildings, should entirely absorb (as we believe it would) the capital of Funds B. and D., there would, as we have before stated, be an eventual loss to Fund C. of the whole income now derived from Funds B. and D., amounting to 45,000*l.* per annum. From this, however, must be deducted the present surplus income of Fund C., of 3000*l.*, and also the rents, amounting to 2000*l.* per annum, now paid out of Fund C. for various offices used by the Court of Chancery, but which, on the completion of the proposed new buildings, would be no longer required. These two sums, amounting together to 5000*l.*, being deducted, the net deficiency to be made good out of the Consolidated Fund would thus be reduced to 40,000*l.* per annum. The real charge upon the public, however, would fall very far short of this sum.

96. We have stated that the net surplus of the fees paid over to the Treasury by the several Masters of the superior courts of common law have amounted, on the average of the last six years, to upwards of 14,000*l.* per annum. But out of the gross fees received by the

Masters, rents are now paid by them to the amount of more than 1600*l.* per annum for various buildings at present occupied by the officers of the common-law courts, which, when the new buildings are completed, will cease to be required. The surplus will therefore be increased by the sum thus saved, and will then amount to 16,000*l.* per annum. Again: the surplus of the fees of the Court of Probate, now paid over to the Exchequer, are proved to amount to 7000*l.*, and of those of the High Court of Admiralty to about 1200*l.* per annum. These three sums, amounting together to 24,000*l.*, must therefore be placed to the credit of the account, and the real contribution to be borne by the public will thus be reduced from 40,000*l.* to 16,000*l.* per annum, as shewn by the statement below\*.

97. But even this is not the whole case. We have dealt above with the existing figures, but we are assured by most competent authority, that if sufficient accommodation were provided for the Court of Probate, arrangements for the conduct of the business of that court, which are now retarded only by the want of adequate space, would be at once matured, and by means thereof the surplus fees would be increased certainly to 14,000*l.*, but more probably to 20,000*l.*, per annum. Taking the smaller only of these two sums, the net annual charge to the public would thus be reduced from 16,000*l.* to 9000*l.* per annum.

98. We recommend, therefore, that there shall be annually paid to the Accountant-General of the Court of Chancery, out of the Consolidated Fund, such sum, not exceeding 40,000*l.*, as shall be equal to the dividends on so much of the capital of Funds B. and D. as shall be from time to time withdrawn for the purposes of the proposed scheme. It will be remembered that the money will be required, not all at once, but gradually only, as the purchases of land and the erection of buildings proceed, and that until stock is actually sold for those purposes the dividends on the unsold portion thereof would continue to be received by the Accountant-General as heretofore. The annual sum so to be paid to him would be applied to the same purposes to which the Suitors' Fee Fund (Fund C.) is now applied, and would be accounted for by him accordingly, as he accounts for the income of that and the other funds now under his control.

99. It must be manifest to every one that the buildings at Westminster now used by the superior courts of common law, the Probate and Divorce Courts, and the High Court of Admiralty cannot long continue to be employed for the purposes of those courts. Not only are they an unsightly excrescence, marring the beauty and disturbing the uniformity of the magnificent structure of which they form a part, but they are wholly inadequate and unsuitable for the transaction of the business for which they are now permitted to be employed. Every one concerned in the administration of justice—the Bench, the Bar, the attorneys, jurymen,

witnesses, the public attending the courts—all concur in condemning them as grossly unfit for the important uses to which they are devoted. If, then, they are removed—as sooner or later they must be—a new site must be found for the courts of law, and new buildings erected thereon at the public expense. This outlay will be saved by the execution of our proposed scheme.

100. Again: the defective state of the Probate Court and its offices, and, in particular, the inadequacy of the existing depository of wills, has been urgently pressed on our notice by most competent witnesses, and one of our own number, from his personal knowledge, corroborates their testimony; the want of accommodation operating, in fact, as a serious impediment to the due working out of many of the objects and purposes of the act by which the court was established, and thus tending to defeat its policy. We believe, indeed, that a sum of 70,000*l.* has been actually voted by Parliament for the purchase of a site for new buildings at Doctors' Commons. This outlay will also be saved if our proposed scheme is carried into immediate effect.

101. In order to effect these large savings to the public, to provide proper courts for the due administration of justice, and at the same time to secure the great advantages which we have above pointed out as resulting from the concentration of all the courts and all the offices connected therewith in a central situation, some assistance may well be given from the public resources. The annual payment which we have above recommended would be in the nature of a rent—and, taking its net amount at 16,000*l.* per annum, a very moderate rent—paid by the State for the use of buildings dedicated to purposes of the very highest public utility and importance. Whether this rent should be paid only for a limited time, or in perpetuity—that is to say, whether the charge on the Consolidated Fund should be a temporary or a permanent one—may fairly admit of question.

102. The advantage of making the charge permanent would be, that the Court of Chancery would thereby be enabled to reduce, and ultimately to extinguish, the fees now paid by the Chancery suitors. It is obvious, that if the State takes possession of the Funds B. and D., and applies the entire capital thereof towards the purposes of the proposed scheme, the income of those funds will no longer be available, as heretofore, for the reduction of fees. If, however, Parliament should consider that, under the special circumstances of the case, the public may reasonably be called on to assist in reducing the fees of the Chancery suitors, by means of a permanent charge on the Consolidated Fund, the deficit created by the withdrawal of Funds B. and D. would then be supplied, and, on the falling in of the existing terminable annuities, the available resources of the Court of Chancery would be exactly what they are at present.

103. But if Parliament should not deem it consistent with the public interests to impose any permanent burthen, however moderate in amount, on the finances of the State, then we recommend that the sum to be annually paid over from the Consolidated Fund to the Accountant-General of the Court of Chancery should be reducible and reduced from year to year, as the existing terminable annuities fall in, until the deficiency caused by the absorption of Funds B. and D. shall be thereby made good. It is computed that these annuities will diminish at the rate of above 2000*l.* per annum; and taking the net annual contribution from the public funds to be 16,000*l.* at the commencement, it will wholly cease in eight years; while, if the anticipated increase in the fees received by the Probate Court should take place, the charge on the public will be extinguished in less than half that period.

* Loss to Fund C. by the abstraction of the income of Funds B. and D. .. .. .	£45,000
Deduct present surplus income .. .. .	£3,000
" saving of rents now paid out of Fund C. 2,000 .. .. .	5,000
Net annual deficiency of Fund C. to be made good out of Consolidated Fund .. .. .	40,000
Consolidated Fund Dr. to the above deficiency .. .. .	40,000
Cr. by the following, viz.—	
Surplus of common-law fees .. .. .	£16,000
" Probate Court fees .. .. .	7,000
" High Court of Admiralty fees .. .. .	1,000
	24,000
Net amount of annual charge to the public .. .. .	£16,000

(To be continued).

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J J



## GAZETTES.—FRIDAY, Sept. 7.

## BANKRUPTS.

**JAMES FELL**, New Compton-street, Soho, Middlesex, currier, Sept. 19 and Oct. 17 at half-past 2, London: Off. Ass. Graham; Sol. Mote, 33, Bucklersbury, London.—Pet. f. Aug. 31.

**MARY ANN WOOD**, Luton, Bedfordshire, straw hat manufacturer, Sept. 21 at 2, and Oct. 22 at half-past 1, London: Off. Ass. Pennell; Sols. Harrison & Lewis, 6, Old Jewry, London.—Pet. f. Sept. 6.

**THOMAS JAMES SMITH**, Luton, Bedfordshire, tailor, Sept. 17 at half-past 1, and Oct. 18 at 1, London: Off. Ass. Pennell; Sols. Harrison & Lewis, 6, Old Jewry, London.—Pet. f. Sept. 1.

**JOHN VOKINS and WILLIAM HURD**, Jubilee-place, Chelsea, Middlesex, horticultural builders, Sept. 27 at 2, and Oct. 22 at 12, London: Off. Ass. Pennell; Sols. Clarke & Mead, 30, Bury-street, St. James's.—Pet. f. Sept. 1.

**JAMES OSBORN KENT**, Waterloo-place, Limehouse, Middlesex, draper, Sept. 24 at 11, and Oct. 18 at half-past 1, London: Off. Ass. Pennell; Sols. Ashurst & Co., 6, Old Jewry, London.—Pet. f. Sept. 1.

**GEORGE JOHNSON**, Durham-place, Hackney-road, Middlesex, and Lower Marsh, Lambeth, Surrey, shoe manufacturer, Sept. 24 at half-past 11, and Oct. 18 at 2, London: Off. Ass. Pennell; Sols. Jones & Arkcoll, 190, Tooley-street, Southwark.—Pet. f. Sept. 3.

**CHARLES SPIKINS**, Duke-street, Portland-place, Middlesex, bottled beer merchant, (in co-partnership with Cameron Geddes, trading under the style or firm of Charles Spikins & Co.), Sept. 24 at 2, and Oct. 22 at 1, London: Off. Ass. Pennell; Sol. Peverley, 19, Coleman-street, London.—Pet. f. Sept. 5.

**THOMAS LAW HOLDICH**, Hinckley, Leicestershire, ironmonger, Sept. 19 and Oct. 12 at 11, Birmingham: Off. Ass. Kinnear; Sols. Fitter & Warden, Birmingham.—Pet. d. Sept. 1.

**ROBERT FREELAND**, Manchester, Lancashire, and **JOHN FREELAND**, Kirkintilloch, Dumbartonshire, Scotland, merchants, (trading under the firm of Robert Freeland & Brother), Oct. 12 and Nov. 2 at 11, Manchester: Off. Ass. Fraser; Sols. Worthington & Co., Manchester.—Pet. f. Aug. 4.

**JAMES THOMSON, JOHN THOMSON, and SAMUEL WOODHOUSE**, Birmingham, Manchester warehousemen, Sept. 21 and Oct. 12 at 11, Birmingham: Off. Ass. Kinnear; Sols. Hodgson & Allen, Birmingham; Sale & Co., Manchester.—Pet. d. Sept. 3.

## MEETINGS.

*Michael Flood*, Liverpool, shoemaker, Sept. 25 at 11, Liverpool, pr. d.—*George V. Jackson*, Chichester-place, Battle-bridge, Middlesex, bookseller, Sept. 18 at 1, London, last ex.—*Lewis Levy*, Gravel-lane, London, merchant, Sept. 21 at 12, London, aud. ac.—*Beaumont Clayton*, Ketton, Rutlandshire, stone merchant, Sept. 19 at 2, London, aud. ac.—*Charles Maidlow*, Alma-square, St. John's-wood, Middlesex, beer retailer, Sept. 19 at 2, London, aud. ac.—*Dawson Plane*, King's Lynn, Norfolk, draper, Sept. 18 at half-past 12, London, aud. ac.—*Oscar Reoman*, Martin's-lane, Cannon-street, City, merchant, Sept. 19 at half-past 1, London, aud. ac.—*John Collingwood Tarleton*, Rhyl, Flintshire, shipowner, Sept. 17 at 11, Liverpool, aud. ac.—*Richard Dickon Ashham*, Knottingley, Yorkshire, lime burner, Sept. 20 at 11, Leeds, aud. ac.—*Joseph Kershaw and Wm. George Kershaw*, Wakefield, Yorkshire, stonemasons, Sept. 20 at 11, Leeds, aud. ac.—*Robert Nuttall and Nathan Crossley*, Halifax, Yorkshire, machine makers, Sept. 20 at 11, Leeds, aud. ac.—*J. Newton*, Old Malton, Yorkshire, horse dealer, Sept. 20 at 11, Leeds, aud. ac.—*Samuel Ward*, Croxall, Derbyshire, dealer in oysters, Sept. 20 at 11, Nottingham, aud. ac.—*John James Gummo*, St. Austell, Cornwall, auctioneer, Sept. 18 at 11, Exeter, aud. ac.; Oct. 12 at 1, div.—*Roger Divine M'Manus*, St. Austell, Cornwall, apothecary, Sept. 18 at 11, Exeter, aud. ac.—*George Hoddinott Walton*, Somerton, Somersetshire, linendraper, Sept. 18 at 11, Exeter, aud. ac.; Oct. 12 at 1, div.—*Jonathan Hodge*, Helston, Cornwall, silversmith, Sept. 18 at 11, Exeter, aud. ac.; Oct.

12 at 1, div.—*Robert Ferdinand Price*, Crosby Hall-chambers, Bishopsgate-street, City, merchant, Oct. 1 at 12, London, div.—*James Alfred Artall*, Wm. Rudd Knights, and Wm. Artall, White's-grounds, Barmondsey, Surrey, and St. Neots, Huntingdonshire, tanners, Oct. 1 at 11, London, div.—*J. Monhouse* the younger, New Mill, near Huddersfield, Yorkshire, woollen-cloth manufacturer, Sept. 28 at 11, Leeds, div.

## CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*James Berry Blackburn*, Norwich, carrier, Sept. 20 at 12, London.—*George Curtis*, Landport, Hampshire, licensed victualler, Sept. 29 at half-past 12, London.—*Geo. Gridley*, Matilda-street, Caledonian-road, Islington, Middlesex, coach maker, Sept. 28 at half-past 12, London.—*Wm. Fryer*, Norwich, shoe manufacturer, Sept. 28 at 12, London.—*Richard Ellis*, Northampton, chemist, Sept. 29 at 12, London.—*S. Sander*, St. Mary Axe, London, and Nelson-square, Surrey, merchant, Sept. 28 at half-past 1, London.—*John Green*, Philpot-lane, City, commission agent, Sept. 28 at 12, London.—*Charles Henry Gilks*, Union-row, Tower-hill, and Wapping, Middlesex, ironmonger, Sept. 28 at 2, London.—*Fred Gibson*, Tottenham-road, Kingsland-road; Ball's-pond-road, Islington; and King-street, Turk-street, Bethnal-green, Middlesex, baker, Sept. 29 at 1, London.—*Lewis Philip Sutton*, Aberavon, Glamorganshire, wine dealer, Oct. 1 at 11, Bristol.—*Samuel Bennett*, Nottingham, tailor, Oct. 30 at half-past 11, Nottingham.—*John Martin*, Nottingham, clothier, Oct. 30 at half-past 11, Nottingham.—*Henry Eaton Woodruff*, Nottingham, lace manufacturer, Oct. 30 at half-past 11, Nottingham.—*George Holgate*, Halifax, Yorkshire, grocer, Nov. 12 at 11, Leeds.—*Wm. Osborne*, Birkenhead, Cheshire, printer, Oct. 1 at 11, Liverpool.—*Thomas Robinson Mitchell*, Liverpool, apothecary, Oct. 1 at 11, Liverpool.—*Amelia Ann Levers*, Liverpool, hosier, Oct. 1 at 11, Liverpool.—*Anthony Cumming* the younger, Liverpool, merchant, Oct. 1 at 12, Liverpool.—*Wm. Palin and John Craven Palin*, Chester, maltsters, Oct. 1 at 12, Liverpool.

*To be granted, unless an Appeal be duly entered.*

*William Porteous*, Brighton, Sussex, linendraper.—*James William Ferguson*, Paternoster-row, City, and New-court, Middle Temple, bookseller.—*Henry Pownceby*, Leman-street, Whitechapel, Middlesex, printer.—*James McCure* the younger, Manchester, Manchester warehouseman.—*Wm. Hounsfeld*, Manchester, commission agent.—*Samuel Wright*, Manchester, hotel keeper.

## PETITION ANNULLED.

*George Dixon and James Charles Adcock*, Aldersgate-street, London, and Coventry, Warwickshire, coach-lace manufacturers.

## SCOTCH SEQUESTRATIONS.

*John Park*, Glasgow, insurance broker.—*James Smith*, Muirhouse-dykes, Edinburghshire, coal master.—*James Dobie*, D'Arcy, Newbattle, farmer.—*Archibald Barr*, Glasgow, manufacturer.—*Thomas Watson*, Glasgow, joiner.—*John Wynn*, Carlisle, wright.—*Samuel Simpson*, Glasgow, clerk.—*Alexander & Leggat*, Glasgow, insurance brokers.—*Thomas Pilling & Co.*, Glasgow, leather factors.—*Andrew Millar*, Glasgow, general commission merchant.

## TUESDAY, Sept. 11.

## BANKRUPTS.

**JAMES KAYE**, Richmond-place, St. George's-road, Southwark, Surrey, architect, Sept. 22 at half-past 12, and Oct. 19 at half-past 1, London: Off. Ass. Whitmore; Sols. Messrs. Langham, 10, Bartlett's-buildings, Holborn.—Pet. f. Aug. 1.

**WILLIAM SCORE**, Hatcham, Surrey, soap manufacturer, Sept. 21 at 1, and Oct. 19 at 12, London: Off. Ass. Cannan; Sols. Lawrence & Co., 12, Bread-street, Cheapside.—Pet. f. Sept. 7.

[For continuation of Gazette, see p. 347.]

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THE JURIST.

LONDON, SEPTEMBER 15, 1860.

THE unsatisfactory state of the practice respecting the subject of insanity in criminal proceedings is again forced upon our attention by the recent trial of William Godfrey Youngman for murder, and also by a statute passed in the session of Parliament which has just expired, the 23 & 24 Vict. c. 75.

Youngman was indicted for the murder of his mother; and there were three other indictments against him, for having at the same time murdered his two infant brothers, and a young woman to whom he was engaged to be married. Having been convicted and executed on the first of these indictments, the others were not tried. The defence set up by the accused was, that on the occasion in question his mother had, unprovoked, attacked and killed the three other persons, and then attacked himself, with the view of killing him also; whereupon he killed her in his own defence—a story improbable in itself, and inconsistent with the facts in evidence. In support of this defence, a medical witness deposed, on cross-examination, that a person might labour under insanity so as to be excused from responsibility, although his reasoning powers were not in the least affected. This is reproducing a question respecting which a contest has long been going on between the law of the land and a portion of the medical profession. From the earliest time the law of this country—and we believe that of every other also—has held that insanity consists in the presence of *delusion* in the mind, which prevents the unhappy object of it seeing and understanding things as they really are; and if, under the influence of such delusion, he does an act which in a man of sound mind would be criminal, he stands excused from responsibility, on grounds alike

of humanity and policy. But since the great development of the valuable science of medical jurisprudence in modern times, many medical jurists, and some very eminent persons who have devoted themselves to the study of mental disease and the treatment of the insane, profess to have discovered that there is a species of insanity where no delusion of any kind exists, but the moral character of the patient is revolutionised, and he is hurried to the commission of crimes, of the guilt of which he is perfectly aware, by what they call an "irresistible impulse." To this form some of them have given the name of "moral insanity," and some have even subdivided it into species—as the mania to commit homicide, arson, theft, &c. The law has, however, always sternly refused to acknowledge the existence of this species of insanity; although there is every reason to believe, that in certain cases, owing to the weakness of judges and jurymen, defences founded on it have been allowed to prevail to the defeat of justice. For our own part we have no belief in its existence; but at least we may safely venture to affirm that it is *not proved*; and it is needless to observe, that the onus of proving the existence of so singular a phenomenon lies on those who assert it.

This is not, as is often hastily assumed, a peculiarly medical question—it is a metaphysical or psychological one, on which legislators and tribunals are as well, if not better, capable of judging than physicians. Is man a responsible agent at all? is clearly a metaphysical question; and so must be the branch of it, Is man a responsible agent so long as he retains his reason? Add to which, the common sense of men in every age has indorsed the judgment of their laws, that so long as reason is on her throne responsibility exists. If, indeed, the whole medical profession had in all times held a contrary opinion, it would be a matter deserving of grave attention, although even this could

hardly be allowed to outweigh the established opinion and practice of the human race. But the theory of which we are speaking is not held by medical men in general—it is a theory started in modern times, and confined to a particular school. We should strongly advise every person anxious of studying the subject to read attentively the cases on which the dogma is founded; most of them will be found collected in Beck. Med. Juris. 436, 477, 7th ed., and Tayl. Med. Juris. 791 et seq.; see also p. 787, 3rd ed.; and we venture to say they fall far short of establishing it. In many of them the aberration of reason is plain enough; and in the rest, although there is ample evidence of preternatural impulse to crime, we find no ground for the hypothesis of irresistible impulse. Indeed, the whole doctrine seems based on the fallacy of confounding *preternatural* (we do not say *supernatural*) with *irresistible* impulse. A man may feel a sudden preternatural impulse to crime, but it is his bounden duty to resist that impulse; and when this kind of defence was once urged to a certain learned judge, he sarcastically said, "Laws were made to compel men to resist these irresistible impulses." If a man feels, what many persons have been known to feel, an impulse to throw himself down when standing on the brink of a precipice, it is his duty to conquer that feeling if possible; and if not, to take the remedy which common sense dictates—not to go near precipices: and if a man feels an impulse to commit a crime, it is his duty to conquer that feeling; and if he cannot, or thinks he cannot, then to avoid all occasions which might lead him into the temptation.

When we recollect how often the defence of insanity is resorted to with success—sometimes when it is well founded, but very frequently when it is not—it becomes of importance to consider the legal consequences of such a defence. Until the 39 & 40 Geo. 3, c. 94, the prisoner was acquitted simpliciter, and let loose upon society to repeat, if so inclined, the mischief he had already done. By that statute, when a person is acquitted on the ground of insanity, the Court is directed to detain him until the pleasure of the Sovereign is known; and, according to the practice, he was placed in some lunatic asylum, where such lunatics were kept apart from others. But by the statute just passed, 23 & 24 Vict. c. 75, the Crown is empowered to appoint asylums for criminal lunatics, and the Secretary of State may direct criminal lunatics to be confined in them, (sects. 1 and 2); he may also (sect. 4) appoint any *persons*, not less than three in number, to be a council of supervision for any asylum under that act, and also appoint a resident medical superintendent, &c. The 7th section contains the following proviso:—"Provided always, that any order for removal or discharge, which may now be made by the Secretary of State on the certificate of two physicians or surgeons, may be made on the certificate of the resident medical superintendent of the asylum and any two of the council of supervision." The 9th section then enacts, "that it shall be lawful for the Secretary of State, by his warrant, to permit any person confined in the asylum to be absent from such asylum upon trial for such period as he may think fit, or to permit any such person to be absent from such asylum upon such conditions in all respects as to the Secretary of State shall seem fit; and

in case any person so permitted to be absent upon trial for any period do not return at the expiration of such period, or in case any of the conditions on which any person is so permitted to be absent be broken, the person not returning at such expiration, or absent after any such condition has been broken, as the case may be, may be retaken as herein provided in the case of an escape." Whether the large discretion left to the Executive by this statute, and the facilities which it affords for getting rid of confinement in the asylums which it has created, are consistent with the safety of society against the acts of real or pretended lunatics, especially if moral insanity is to be recognised as a defence to a criminal charge, is a question on which our readers may judge for themselves, but which time alone can effectually determine.

## REPORT OF THE COMMISSIONERS

APPOINTED TO INQUIRE INTO THE EXPEDIENCY OF BRINGING THE COURTS TOGETHER INTO ONE PLACE OR NEIGHBOURHOOD.

(Concluded from p. 339).

104. With regard to Fund D., which we have referred to as one of the sources properly available in aid of the scheme, little remains to be said, as most of the arguments by which its appropriation may be justified have been anticipated in our preceding observations. It will be remembered that this fund amounts to a sum of 201,028*l.* 2*s.* 3*d.* stock, now standing to the credit of an account intitled "Account of Monies placed out to provide for the Officers of the High Court of Chancery;" that it has arisen from the surplus of the fees levied on the suitors between the years 1833 and 1852, not required for defraying the expenses of the court; and that the whole income thereof, like the surplus income of Funds A. and B., is carried over to, and forms part of, the income of Fund C. We are of opinion that if Funds B. and E. should prove inadequate to the complete execution of the proposed scheme, Fund D. may most properly be applied in aid thereof. But in that case we think that Parliament should guarantee the due and punctual payment of the salaries and compensation allowances to the officers of the court, for the security of which this fund now stands charged. The income of Fund C. will, of course, be diminished pro tanto by the abstraction of the capital of Fund D., but provision will have been made for the deficiency thereby caused, by means of the annual sum of 40,000*l.*, which we have already recommended as proper to be paid to the Accountant-General, until the falling in of the terminable annual charges has restored the equilibrium of the entire income.

105. As to Fund E. no observations seem to be required. The sum of 88,254*l.* 5*s.* 1*d.*, arising from the common-law fees which have accumulated between the years 1852 and 1859, both inclusive, and of which that fund consists, is wholly free and unappropriated; and it appears to us that there cannot be a more legitimate application thereof than towards the completion of a scheme from which the suitors at common law will derive the most essential advantage.

106. In the commencement of this last division of our Report we have expressed our opinion that the funds, the nature and amount of which we have now submitted to your Majesty, would be sufficient for carrying into effect the concentration we have recommended. Upon this matter it is, for obvious reasons, very difficult to arrive at an absolute certainty, and we

have not thought ourselves justified in incurring the expense of minute and detailed surveys and estimates, which would have been necessary to enable us to speak with certainty, but which would at present have been premature. In the minutes of evidence annexed to this our Report, however, will be found general evidence on the subject, on which we think we may rely with some confidence for the opinion we have ventured to express.

107. From this evidence it appears that the site we have recommended may be acquired for about 675,000*l.*, and that an equal sum would probably be required for the erection of the proposed buildings, making together 1,350,000*l.* Adding to this sum 150,000*l.* for contingencies, we have an aggregate amount of 1,500,000*l.*, which would be about the produce of the three Funds B., D., and E. But as, on the completion of the proposed new courts and offices, large and valuable blocks of building, (which have been acquired and erected out of the profits of the suitors' unemployed cash, under the provisions of the various acts of Parliament to which we have above referred), and the freehold of which is now vested in the Lord Chancellor or the Accountant-General of the Court of Chancery, would no longer be required for the business of the court, such buildings and the site thereof might be sold, and the produce of the sale brought in aid of the proposed scheme, if such aid were found to be necessary, or, if not, might be carried over to the Suitors' Fund.

All which we humbly submit to your Majesty.

J. T. COLERIDGE.

W. P. WOOD\*.

G. C. LEWIS.

R. J. PHILLIMORE.

J. YOUNG.

Dated this 3rd day of July, 1860.

#### APPENDIX A.

##### *Observations of Vice-Chancellor Wood, referred to in the Report†.*

I object to the appropriation of any part of the Suitors' Fund, or of the Suitors' Fee Fund of the Court of Chancery, towards the expense of erecting courts for the transaction of any business other than that of the Court of Chancery.

The reasoning upon which the justice of such an appropriation is founded would equally justify an application of the fund in discharge of the National Debt. It is said that the suitors have neither collectively nor individually any right or interest in the fund in question beyond the guarantee which the Fund B. (as it is designated in the report of the majority of the commissioners upon this subject) affords them—namely, a guarantee against any deficiency in Fund A. in the event of a fall in the 3*l.* per Cents. below 87*l.*: that there is no trust beyond this impressed upon the fund for the benefit of the suitors as a body: that there is no possibility of tracing the interest that any individual may have in the accumulations made by employment of his money, even if a quasi trust in such accumulations were supposed to exist for his benefit, and it were assumed that the State is not at liberty to make a profit of money held by one of its tribunals during litigation as a stakeholder for the successful party. It is further said that the fund is, in fact, in part constituted of monies raised by taxes on common-law proceedings, and that at various epochs common-law proceedings were taxed in order to

make good the defalcations of the Masters, and to provide for the salaries of officers or judges of the Court of Chancery; and that in Ireland an application has been made of the money of the suitors in Chancery to the building of courts for the use of several other tribunals.

Now, I do not think it necessary to insist on any abstract right being vested in the suitors of the Court of Chancery, whose money has been properly employed under the sanction of divers acts of Parliament, to claim, either collectively or individually, any part of that profit. There can be no doubt that it is not a right capable of being enforced by any remedy; but, on the other hand, there is something startling in the proposition, that the profit arising from investment of money, of which the Court of Chancery became possessed merely as stakeholder for litigants, could be legitimately transferred by Parliament to the Chancellor of the Exchequer for the purpose (say) of carrying on the Russian or Chinese war. The principle, however, contended for goes to that full extent. As a matter of fact, this has not, up to the present moment, been the view of the Legislature. No application, in England at least, has been made of that which in the several acts of Parliament is always called the "Suitors' Fund of the Court of Chancery" to any purpose unconnected with the benefit of the suitors in the court.

I conceive the view of the Legislature to have been, that as it could not, without violation of the general rights of property, have compelled, *a priori*, the suitor to deposit his cash in court for the purpose of obtaining a banker's profit for State objects, so it cannot with propriety subsequently apply a fund thus realised to the general purposes of the State. On the contrary hypothesis there would be an impression on the mind of every suitor that his money was impounded, not so much for his own security as for the purpose of trafficking with it for State objects, and that which he new regards as a valuable protection of his interests would assume the equivocal shape of a Government speculation at his expense. This feeling would certainly be aggravated if on a close examination he became aware that part of the fund appropriated to Government purposes was a material guarantee for his own security of cash payment in the event of the funds falling below 87*l.* However remote the probability of a loss from such a fall, (though during the great war they fell very far below that value), yet I am of opinion that the suitor would feel himself aggrieved, and that his confidence in the administration of justice would be shaken, were the fund in question appropriated by the State to any general purpose, or any purpose in which he has no direct interest.

I would give, as a case analogous to that which I am now considering, the case of a charitable foundation for a school, but partly supported by the payment of a given sum of head-money annually contributed by the scholars. Assume a fund accumulated beyond the immediate necessities of the school, and the question to be, whether the accumulated fund should be applied in providing better teachers or school buildings, or in diminishing the tax of head-money in future, on the suggestion of the trustees on the one hand, or should be applied, on the application of the governors of a hospital in the town, on the other, to improve their charity. I put the case much lower than the principle asserted—namely, of absolute State control over the fund; for that would invite a suggestion of applying the accumulated school fund to the national defences or the like. I think few would hesitate to say which was the more reasonable application of the fund. A moral fitness seems to suggest that that money, contributed for the supposed necessities of the school, should not be applied to any other purpose, though no former pupil or body of pupils could assert a specific right to any portion of the accumulation. The true analysis of

\* Dissenting from so much of the Report as relates to the appropriation of the funds arising from the cash or fees paid by the suitors of the Court of Chancery. (See Appendix A.)

† See ante, p. 314.

this feeling of moral fitness shews it, I think, to be founded on the disquiet and irritation that would be produced in all future contributors of money for school purposes after such first diversion of the fund. They would feel that they too might be constantly overcharged in order to make a profit for other purposes than the school purposes. So, when the State applies the profit of the Sutors' Fund to providing accommodation for the suitor, or to the diminution of the fees payable to the court, although the former suitors who have contributed to the fund may derive no profit from such application, (a fact not to be assumed as incontestable with regard to many of them), yet each successive body of suitors feels that the profit to be made of his money is required for his benefit, inasmuch as he would otherwise have to pay heavier fees to the same court where his money is deposited. It is no small evil to the suitor that whilst waiting for the decision of the court he cannot employ his money as he will, and he might reasonably ask to have some share at least in the profit made by its investment, even where he has not chosen to incur the risk of an investment in 3 $\frac{1}{2}$  per Cents. The court, operating on a large fund, and for long periods, is sure of its profit; the suitor, waiting in uncertainty for his fund, is afraid of having to realise it at a loss.

But as the Court of Chancery is not a mercantile concern, it should employ the accidental advantage it possesses in the large deposits of the aggregate body of suitors for their benefit. How can this be done better than by diminishing the fees they would otherwise have to pay?

I confess that I myself entertain a strong opinion that all courts for the administration of justice should be supported by general taxation; and that the protection of property requires that the maintenance of the civil tribunals, no less than the police and military force of the country, should be a public burthen. Hitherto, however, this principle has not been generally admitted, and the courts have more or less been supported by a tax on the suitors of each court in the shape of fees. What pretence, however, can we have for making a profit of the suitor's money, and yet charging him with fees to obtain justice?

The fees have hitherto been greatly diminished by means of this profit. This is, in my judgment, its most legitimate application; and in some twenty or thirty years, when compensations now payable for suppressed officers will fall in, I believe all fees might be abolished. The fees of court now amount to 8 $\frac{1}{2}$  per cent. of the suitors' total expense of litigation—a very considerable item; but if you now take all the profit derived from the suitors' cash in order to build common-law courts, an Admiralty court, &c., and prevent the abolition of fees on Chancery proceedings, you will, in fact, levy fees on a man engaged in a Chancery suit in order to enable other persons to conduct suits more at their ease before the common-law, divorce, or Admiralty judges. If the principle of levying fees on the suitor be just, it can only be on the ground that the court sits for his benefit. But how is the Chancery suitor benefited by the better accommodation afforded to an applicant for a divorce? It is almost a humorous suggestion on the part of one witness, that many men have the misfortune of becoming litigants in every court in succession. They would at least, I think, like to wait till the misfortune occurred, rather than be taxed for such possible advantages by anticipation.

It is, however, urged, that the Legislature more than a hundred years ago imposed a tax upon proceedings at common law in order to replace the funds of the suitors in Chancery which had been lost through the insolvency of the Masters of that court; that the tax was afterwards made perpetual, and applied to the payment of officers of the Court of Chancery. To this I reply, that the State was bound to remedy the wrong done to

the suitors in Chancery by the officers of a public tribunal. I do not think the means taken to redress that wrong justifiable; but at that period special taxes were raised for meeting special public charges, which would now be charged generally on the Consolidated Fund. Thus, the robbery of the City Orphan Chamber, in the time of Charles II, was made good by a tax on coals imported into London; and many other yet more objectionable cases might be cited of taxes levied for purposes singularly remote from any matter in which the taxpayer was concerned. I do not think that such a course as that of levying fees at common law to pay officers in Chancery would now meet with a single supporter in Parliament. It is suggested that a part of the very fees so levied on common-law proceedings remained unappropriated. If this portion can be now earmarked, I see no objection to its being employed in erecting the common-law courts. It is further said that suitors in Chancery will be benefited by the contiguity of the other courts, inasmuch as all business in which solicitors are employed will be better and more economically performed after a consolidation of the courts has taken place. This is the argument generally used to reconcile the taxed classes to a new tax, viz. that they will reap the benefit of it by some circuitous and indirect results. It is not, however, found to be satisfactory or convincing. The Chancery suitors would certainly prefer a reduction of 8 $\frac{1}{2}$  per cent. in the cost of a Chancery suit to any speculative benefit of the nature suggested.

I think, therefore, that Parliament has justly and wisely hitherto confined the application of the profit made by the suitors' money to the benefit of the suitors in Chancery, without stopping to inquire minutely whether the suitor to be relieved be identical with the suitor whose cash produced the profit; because it thereby satisfies every successive suitor, whose money is made use of, that a profit is not made at his expense without a corresponding benefit to him; for if that profit were not applied to purposes connected with the Court of Chancery, usually paid for by fees, he would have to submit to the payment of fees for the same purposes; when, if the profit resulting from the suitors' cash be now applied to the building of common-law, Admiralty, and other courts, the fees payable in Chancery will probably have to be increased, and the suitor, already sufficiently vexed by litigation, will justly feel that a profit is in effect made by the State of his misfortune; for the State will be saved the expenditure of money by making use of the profits derived from the suitors' payments into court.

I think that on general principles of political expediency, also, much might be urged against the propriety of allowing the Chancellor of the Exchequer to look to such a source of revenue as the profitable employment of the money held in deposit for litigants. On that branch of the subject I forbear, however, to enter, and will conclude these observations by saying, that although the great weight of the contrary opinion entertained by the majority of the commissioners has pressed much upon me, I cannot help entertaining a conviction (fortified by the evidence of the Master of the Rolls and Lord Justice Turner) that the first step towards the appropriation of the Sutors' Fund to purposes unconnected with the business of the suitors would be erroneous and unjust.

W. P. Wood.

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COUNTY COURT CIRCUIT, No. 37.—The office of judge of this circuit, vacant by the decease of John Herbert Koe, Esq., Q. C., recorded in our last, has been conferred on J. Whigham, Esq. Mr. Whigham was called to the Bar in 1832, and is a member of the Northern Circuit.

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*Thomas Clark*, Bradford, Yorkshire, paper merchant, Oct. 5 at 11, Leeds, last ex.—*Alfred Robbins*, Newport, Monmouthshire, builder, Oct. 4 at 11, Bristol, and. ac.—*Henry Pownceby*, Leman-street, Whitechapel, Middlesex, printer, Oct. 3 at 11, London, div.—*Levi Lomades*, Abergavenny, Monmouthshire, draper, Oct. 11 at 11, London, div.—*Alexander Waite*, Berwick-upon-Tweed, draper, Oct. 4 at 12, Newcastle-upon-Tyne, first and fin. div.

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K K

## GAZETTES.—FRIDAY, Sept. 14.

## BANKRUPTS.

- WILLIAM FRANCIS CROFTS**, Castle-street East, Oxford-street, Middlesex, printer, Oct. 1 at 12, and Oct. 29 at 2, London: Off. Ass. Pennell; Sol. Kaye, 89, Chancery-lane, London.—Pet. f. Sept. 12.
- ALFRED ROLFE** and **JOHN DAVIS**, Dorrington-street, Clerkenwell, Middlesex, timber merchants, Oct. 1 at half-past 11, and Oct. 29 at 11, London: Off. Ass. Pennell; Sols. Wood & France, 8, Falcon-street, Aldergate, London.—Pet. f. Sept. 12.
- ROBERT STONE**, Cerne Abbas, Dorsetshire, innkeeper, Sept. 26 and Oct. 16 at 1, Exeter: Off. Ass. Hirtzel; Sols. Andrew, Dorchester; Clarke, Exeter.—Pet. f. Sept. 11.
- SAMUEL RUTHERFORD**, York, draper, Sept. 28 and Oct. 19 at 11, Leeds: Off. Ass. Young; Sols. Wood, Bradford; Carless & Cudworth, Leeds.—Pet. f. Sept. 10.
- EDWARD TOYNBEE**, Lincoln, agricultural merchant, (carrying on business under the name or style of Edward Toynbee & Co.), Sept. 26 and Oct. 24 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sol. Chambers, Lincoln.—Pet. d. Aug. 31.
- FREDERICK GARFIT**, Brigg and Scawby, Lincolnshire, scrivener, Sept. 26 and Oct. 24 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sol. Plaskitt, Gainsborough.—Pet. d. Sept. 12.
- THOMAS CHARLTON BELL**, Durham, corn miller, Sept. 20 at 11, and Oct. 24 at half-past 11, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Cram & Co., Newcastle-upon-Tyne.—Pet. f. Sept. 6.
- EDWARD TURNBULL**, West Hartlepool, Durham, shipowner, Sept. 20 at 11, and Oct. 26 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sol. Forster, Newcastle-upon-Tyne.—Pet. f. Sept. 11.

## MEETINGS.

*George Padmore* the younger, Northampton, shoe manufacturer, Sept. 25 at 11, London, aud. ac.—*Manuel L. J. Lavater*, Strand, Middlesex, India rubber manufacturer, Sept. 25 at half-past 2, London, aud. ac.—*Frederick G. Orchard* and *George F. Cunningham*, Brick-lane, Old-st., St. Luke's, Middlesex, rick cloth manufacturers, Sept. 27 at 12, London, aud. ac.—*George J. Sandford*, High-street, Marylebone, and Clerkenwell-green, Middlesex, linendraper, Sept. 25 at 2, London, aud. ac.—*William Kilby*, Church End, Willesden, Middlesex, contractor, Sept. 27 at half-past 1, London, aud. ac.—*Francis B. J. Read*, Leadenhall-market, London, and Upper North-street, Bethnal-green, Middlesex, butcher, Sept. 27 at half-past 12, London, aud. ac.—*Thomas Harrison*, Henley-upon-Thames, Oxfordshire, tailor, Sept. 25 at 12, London, aud. ac.—*Samuel Langford*, Myddelton-st., Clerkenwell, Middlesex, leather seller, Sept. 25 at 11, London, aud. ac.—*Jonathan Morehouse* the younger, Dobroyd Mills, New Mill, near Huddersfield, Yorkshire, woollen cloth manufacturer, Sept. 27 at 11, Leeds, aud. ac.—*Richard Bevan*, Liverpool, wine merchant, Sept. 27 at 11, Liverpool, aud. ac.; Oct. 8 at 11, div.—*John Hughes*, Liverpool, licensed victualler, Sept. 27 at 11, Liverpool, aud. ac.—*Henry Joseph Smith*, Newbury, Berkshire, corn dealer, Oct. 5 at 11, London, div.—*Edward Staff Prior* and *Alfred Staff Prior*, Bishopsgate-street, Middlesex, coal merchants, Oct. 5 at half-past 12, London, div. sep. est. of *Alfred Staff Prior*.—*A. Davis*, Camden-terrace, Camden-town, Middlesex, commission agent, Oct. 5 at 11, London, div.—*John Goodall Brett*, Hornchurch, Essex, grocer, Oct. 5 at 12, London, div.—*H. Cooper*, Great Cambridge-street, Hackney-road, and Pownall-terrace, Queen's-road, Dalston, Middlesex, shoe manufacturer, Oct. 5 at 1, London, div.

## CERTIFICATES.

*To be allowed, unless Cause be shown to the contrary on or before the Day of Meeting.*

*Samuel Nizon Haynes*, Leek, Staffordshire, grocer, Nov. 5 at 11, Birmingham.—*Henry Dunnington*, Nottingham, glove cloth manufacturer, Oct. 30 at half-past 11, Nottingham.—*Peter Williamson* the younger, Salford, Lancashire, grocer, Oct. 11 at 12, Manchester.—*George Frederick James*, Manchester, elastic web manufacturer, Oct. 10 at 12, Manchester.—*George James Heald*, Manchester, money scrivener,

Oct. 10 at 12, Manchester.—*John Lamb*, Pendleton, Lancashire, grocer, Oct. 10 at 12, Manchester.

*To be granted, unless an Appeal be duly entered.*

*John Cooper*, Manchester, butter merchant.—*Nathaniel Symons*, Cambridge-street, St. Pancras, Middlesex, iron-founder.—*James Benjamin Dwan* and *Edwin Francis A. Boyle*, New-street, Spring-gardens, Middlesex, dealers in iron.—*Andrew Suttin* and *W. Whittingham*, Cowley-valle, near St. Helens, Lancashire, corn millers.

## SCOTCH SEQUESTRATIONS.

*Alexander Duncan Gray*, Edinburgh, bootmaker.—*James Mauchline*, Pollokshaws, carter.—*John Rae & Son*, Glasgow, commission merchants.—*James Wylie*, Glasgow, fisher.—*Allan Barnett*, Coupar-Angus, Perthshire, merchant.

## TUESDAY, Sept. 18.

## BANKRUPTS.

- EDWARD CLARKE WALKER**, Brewhouse-yard, St. John-street, Clerkenwell, Middlesex, annatto and blue manufacturer, (lately trading with James Kelita Hardy, at the same place, and Fenchurch-street, London), Sept. 29 at 11, and Nov. 1 at 12, London: Off. Ass. Johnson; Sols. J. & J. H. Linklater & Co., Walbrook; Loft & Co., King-street, Cheapside.—Pet. f. Sept. 17.
- SAVING LUCKCUCK**, White Horse-yard, Liverpool-road, Islington, Middlesex, livery-stable keeper, Oct. 2 at 2, and Oct. 30 at 12, London: Off. Ass. Bell; Sol. Solomon, 22, Finsbury-place.—Pet. f. Sept. 17.
- WILLIAM PICKFORD**, Fenchurch-street, City, merchant, (trading under the firm of William Pickford & Co.), Oct. 2 at 11, and Oct. 30 at 1, London: Off. Ass. Bell; Sols. Marten & Co., Commercial-chambers, Mincing-lane.—Pet. f. Sept. 17.
- EDWARD MORRIS WATSON**, Tottenham-court-road, Middlesex, linendraper, Oct. 1 at 2, and Oct. 26 at half-past 1, London: Off. Ass. Whitmore; Sols. Parker & Lee, 18, St. Paul's Churchyard.—Pet. f. Sept. 13.
- THOMAS PITCHER**, Raven-row, and South-street, White-chapel-road, Middlesex, trunk maker, Oct. 1 at 1, and Nov. 5 at 11, London: Off. Ass. Pennell; Sols. Lewis & Sons, 7, Wilmington-square.—Pet. f. Sept. 14.
- WILLIAM READING**, Mortimer-street, Cavendish-square, Middlesex, coach builder, Oct. 1 at half-past 1, and Nov. 5 at half-past 12, London: Off. Ass. Pennell; Sol. King, 25, Collego-hill, London.—Pet. f. Sept. 15.
- GEORGE HUNTINGTON**, Great Suffolk-street, Borough, Surrey, boot and shoe maker, Oct. 1 and 29 at half-past 12, London: Off. Ass. Pennell; Sols. Harrison & Lewis, 21, Great Suffolk-street, Borough.—Pet. f. Sept. 13.
- GEORGE BROOKE**, Newport, Shropshire, ironmonger, Oct. 1 and 26 at 11, Birmingham: Off. Ass. Whitmore; Sols. Walters & Balden, Birmingham.—Pet. d. Sept. 5.
- GEORGE HADEN HICKMAN** and **ALFRED HICKMAN**, Bilston, Staffordshire, iron manufacturers, Oct. 13 and Nov. 2 at 11, Birmingham: Off. Ass. Whitmore; Sols. E. & H. Wright, Birmingham.—Pet. d. Sept. 17.
- WILLIAM TAIT**, Nottingham, jeweller, Oct. 4 and 29 at 11, Nottingham: Off. Ass. Harris; Sols. Cowley & Everall, Nottingham.—Pet. d. Sept. 15.
- JURGEN MOOS**, Swansea, Glamorganshire, shipbroker, Oct. 1 and 22 at 11, Bristol: Off. Ass. Acraman; Sols. Waldron, Cardiff; Bevan & Co., Bristol.—Pet. f. Sept. 14.
- JOSEPH EDWARD BLECH**, Liverpool, shipbroker, Oct. 1 and 22 at 11, Liverpool: Off. Ass. Cazenove; Sols. Woodburn & Pemberton, Liverpool.—Pet. f. Sept. 13.
- JOHN NICHOLSON**, Liverpool, currier, Oct. 1 and 22 at 11, Liverpool: Off. Ass. Turner; Sol. Tyrer, Liverpool.—Pet. f. Sept. 17.

## MEETINGS.

*Thomas Crane*, Kegworth, Leicestershire, common brewer, Oct. 2 at 11, Nottingham, ch. ass.—*Jas. Berry Blackburn*, Norwich, currier, Sept. 29 at 12, London, aud. ac.—*Frederick Gibson*, Tottenham-road, Kingsland-road; Ball's-pund-road, Islington; and King-street, Turk-street, Bethnal-green, Middlesex, baker, Sept. 29 at 1, London, aud. ac.—*John A. Hurst*, Ludgate-street, City, mantle manufacturer, Sept. 29

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## THE JURIST.

LONDON, SEPTEMBER 22, 1860.

THE Report of the commissioners\* appointed by her Majesty to inquire as to the expediency of bringing together into one place or neighbourhood all the superior courts, with their various offices, will, we feel assured, be read with great interest by all members of the legal Profession, and especially by those practising within the metropolis.

The inconvenience and expense occasioned by the separation of the superior courts, now scattered about town in all directions, have long been deeply felt, and loudly complained of, both by practitioners and suitors. Numerous plans have been suggested, some by interested bodies or individuals, suggesting what they wish the public to believe would either cure, or at any rate palliate, the evils complained of. Doctors' Commons, Lincoln's-inn, and Lincoln's-inn-fields have, in turn, been pointed out or offered as admirable sites either for the whole, or at any rate some, of the superior courts. We are, however, glad to see that the commissioners have rejected these schemes, and have recommended, as a site for the superior courts and their offices, a locality which we have long since stated to be, in our opinion, by far the best for that purpose, viz. "the site bounded by Carey-street on the north, Pickett-street and the Strand on the south, Bell-yard on the east, and Clement's-inn on the west."

The associations connected with Westminster Hall no doubt will have influence with many, and have not been overlooked by the commissioners in coming to the conclusion at which they have arrived. They have, however, very wisely, in our opinion, preferred the convenience of the public and the Profession to mere sentiment, in proposing that the Courts of Common Law, following the recent example of the Courts of Chancery, should emigrate from Westminster Hall, henceforth to be exclusively dedicated to the service of Parliament. The site recommended by the commissioners has one very great advantage over all others—it is equally accessible to Lincoln's-inn and the Temple,

in the former of which localities the practitioners in Chancery, in the latter the practitioners in the courts of common law, have their chambers and offices. Moreover, since the practice in the Probate, Divorce, and Admiralty Courts is thrown open to the whole Profession, and as the practice in bankruptcy has long been open to all, though practically, and as we think unfortunately, confined to a few, great benefit will result from the Courts of Probate, Divorce, Admiralty, and Bankruptcy being under the same roof as the superior courts of common law and equity.

Two courts only appear to be excepted from the general plan—the courts of ultimate appeal, viz. the House of Lords and the Judicial Committee of the Privy Council; and as the number of appeals to those tribunals is not large, and as the number of practitioners usually employed therein is small, no great amount of inconvenience may be sustained by such appeals being disposed of in the localities where they are now heard. But, at the same time, if new courts worthy of the nation are to be built on one great central site, we do not see that noble Peers or Privy Councillors would lose ought of their dignity by sitting in courts there provided for them.

Not only do the commissioners recommend that all the superior courts (with the exceptions we have mentioned) and their offices should be brought under one roof, but they also strongly, and, as we think, very rightly, urge that various accommodations, in which our present courts are miserably deficient, should be attached to each court. "It would be indispensable," they observe, "that there should be provided, simultaneously with the courts, robing-rooms for the Bar, an adequate number of consultation-rooms, and a reading-room; waiting-rooms for attorneys and jurymen in attendance; a withdrawing-room for the jury impanelled, to consider their verdict; and two waiting-rooms for the witnesses in attendance for the respective parties in the cause before the Court."

The expenditure for purchasing the site and constructing the courts proposed by the commissioners will necessarily be great, and such as, if required from the public purse, they could not reasonably hope, in the present state of our finances, to extract even from the most reckless Chancellor of the Exchequer. The com-

\* See ante, p. 290.

missioners, however, have suggested that there are certain funds which may with propriety be available for these purposes, "without imposing any, or, if any, only a moderate and temporary, burthen on the finances of the State."

These funds are three in number—first, "the Sutors' Fund" of the Court of Chancery, consisting of 1,291,629*l.* 5*s.* 6*d.* stock; secondly, a sum of stock arising from the accumulation of surplus fees received from suitors in Chancery, and forming part of the fund called "the Sutors' Fee Fund," amounting to 201,023*l.* 2*s.* 3*d.* stock; and, thirdly, a sum arising from the surplus fees received by the officers of the superior courts of common law, amounting to 88,254*l.* 5*s.* cash. These sums, if they can properly be applied for the purposes suggested, are certainly adequate in amount.

In order that they may justify their application, the commissioners give us a very clear history of the funds, and of the mode in which they have from time to time been accumulated until they have reached their present amount.

The majority of the commissioners are of opinion that the whole of the funds may be appropriated for the purposes of the new courts without any violation of the rights of property. The controversy, however, may be said to turn substantially upon the applicability of the Sutors' Fund, which appears to have arisen in this manner:—When money is brought into court, and the parties interested therein, either anticipating a speedy termination of their litigation, and not choosing to incur the risk of a fall in the funds, or for some other reason, or it may be from mere forgetfulness, decline or neglect to apply to the Court to have the same laid out and invested—in all such cases the money, as between the suitors and the Court, remains in the hands of the Court as so much cash, and at the termination of the litigation the exact sum so brought in is paid to the successful party, without increase or diminution. Under various acts of Parliament the Lord Chancellor has been empowered to invest in stock such portion of the suitors' cash lying unemployed in the Bank of England as exceeds what may be required to answer current demands; and it is from the profits of such investments that the Sutors' Fund arises.

The objection to the appropriation of this fund is certainly deserving of consideration, for it is suggested that the Court stands towards the suitors in the relation of trustee, and therefore, according to the well-known doctrine of equity, is not entitled to derive any profit from the investment of money the property of the suitors, who are to be considered in the light of *cestui que trust*.

The majority, however, of the commissioners look upon the Court rather in the light of a banker or stakeholder, and as being in such capacity entitled to the profits of the investment authorised by the Legislature, in the event of the suitors neglecting themselves to make an application for any investment. Moreover, the majority of the commissioners clearly shew that the formation of the Sutors' Fund was not the act of the Court, but the result of special legislative interference, and that the Legislature has from time to time dealt with the fruits of these investments, not for the benefit of the suitors, by directing that the income

should follow the capital, and that the profits should belong to those by the employment of whose money such profits had been produced, but, on the contrary, it has from time to time applied the income of such investments to a variety of purposes of a public character—such as providing for the expenses of the Accountant-General's office, for the increase of the salaries of the Masters, for pensions and compensations for officers of the Court, and for new buildings for the transaction of the business of the Court. Moreover, as the income arising from the investments has been uniformly directed to constitute part of "the common and general cash of the suitors," and to be promiscuously used and applied to answer the purposes to which it was destined, "all traces of individuality," as the commissioners well observe, "are therefore lost, and no suitor could point to, and as it were earmark, his own cash, and affirm that such cash had been the specific subject of investment and profit." They add, moreover, what appears to us to be conclusive as to the applicability of this fund, that "between the year 1739 and the present time, cash to the amount of some hundreds of millions has been paid into and drawn out of court by suitors, and yet during the whole of that long period not one single suitor has ever received anything beyond the cash actually paid into court, or has claimed any portion of the profit to which we are referring."

Independent, then, of the question, whether the practice of the Court, founded upon the enactments referred to, is right or just in principle, we think that the funds in question may at any rate be treated as derelict, and that they could not be applied to a better public purpose, or more in accordance with the former acts of the Legislature, or more for the benefit of suitors, than in providing proper courts for the administration of justice; nor do we think the Legislature could do better than to adopt in toto the admirable suggestions of the commissioners.

At the same time we may be allowed to suggest, that at least grave doubts may be entertained whether the present practice of the Court in dealing with the money of suitors paid into court, and for the investment of which they have made no application, does not, in some instances, operate with injustice, but we have no doubt that such injustice might and ought to be remedied.

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## THE SECRETARY OF STATE AND THE ROAD MURDER.

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Our readers are doubtless aware that in the month of June last a murder of an atrocious character was committed at Road, in Wiltshire. The subject of it was a very young child, the son of a person of the name of Samuel Saville Kent, which was taken out of its cradle during the night, and its remains were afterwards found mutilated in a water-closet, all the members of a somewhat numerous family, as well as several servants, being in the house at the time. Suspicion at first naturally fell on the female servant who slept in the same room with the deceased, but, having been brought before the local magistrates, no case appeared against her, and she was discharged. The attention of Government having been drawn to the matter, an experienced detec-

tive officer was sent from London to investigate it, and a young lady, one of the half-sisters of the deceased, was brought before the magistrates, charged with the murder, on evidence, as it appears to us, of a most flimsy kind. At all events, the magistrates seem to have been of that opinion, and she also was discharged. After this a man, in another part of the kingdom, voluntarily came forward and declared himself the murderer; but on being brought to the neighbourhood where it was committed, and examined before the magistrates there, the falsity of his self-accusation became apparent, and he was discharged; and, if we may trust the statement of a local paper, (*The Sherborne Journal*), instead of being dismissed from court with the contempt due to a convicted impostor and trifle with the administration of justice, was sent back to London by the magistrates, who considerably paid his fare.

As might have been expected, such a state of things has caused great excitement in Wiltshire and the neighbouring counties, and memorials have been got up appealing to Government to grant a royal commission to inquire into the affair. We subjoin that sent from Bath, together with the answer of the Secretary of State:—

“To the Right Honourable the Secretary of State for the Home Department.

“The memorial of the mayor and other inhabitants of the city of Bath, being magistrates, clergymen, bankers, commissioned officers in her Majesty’s two services, members of the legal and medical professions, &c., sheweth,—That an extraordinary crime, and, as far as we know, a crime unique and unparalleled in the annals of this country, was committed on the 29th June last at Road, in the adjoining county of Wilts: that, as living in the immediate neighbourhood, our attention has been specially directed to it: that a miscarriage of justice has occurred through the defective manner in which the coroner’s inquest was conducted, that inquest having been closed after one sitting, without any attempt to ascertain and name the murderer: that, in consequence of this, Samuel Saville Kent, his family and household, have never been examined and cross-examined: that the condition of the doors, windows, and fastenings of the house prove that Road House was not forcibly entered from the outside during the night: that therefore the murderer was an inmate of that house, or was secreted there for the purpose, and that his accomplices before and his accessories after the fact are to be sought in that mansion: that Mr. Kent’s household are, therefore, collectively responsible for that murder, and that the innocence of no one of them is to be assumed: that nevertheless the inmates of that house have never been examined: that we, therefore, humbly pray you to grant a special commission for the investigation of this crime, as the ordinary means have entirely failed: that a special commission is an unusual procedure, but that the crime is extraordinary and unparalleled in its character and circumstances. We therefore pray you to grant such special commission.”

We wonder what notions the framers of this memorial entertain as to the power of the Crown in granting special commissions to investigate the authors of crimes

of which no person in particular is accused; or with what powers they think such commissions could be armed beyond those possessed by the ordinary tribunals of the law and the justices of the peace. Physical torture to extract evidence has always in this country been prohibited by law; and, whatever may be said in favour of subjecting persons actually on their trial to the moral torture of judicial interrogation, the subjecting a whole family to such a process, on the assumption, which may or may not be well founded, that a given crime must have been committed by one or more of them, is a proceeding hitherto unknown among us. But, whatever the views of the memorialists on these subjects, the Secretary of State has returned the following sensible and constitutional answer, to the three last paragraphs of which we particularly wish to direct attention:—

“Whitehall, Sept. 3.

“Sir,—I have received and laid before Sir G. Lewis a memorial signed by yourself and many other highly respectable gentlemen of Bath and its neighbourhood, calling the attention of the Secretary of State to the murder lately committed at Road.

“You represent in this statement that the family in whose house the murder took place may be collectively responsible for it, but the individuals of which it is composed have not, in the proceedings which have taken place, been examined and cross-examined as to their complicity in that frightful transaction.

“You add, that in your opinion such an inquiry is necessary for the ends of justice, and you pray Sir George Lewis to grant a special commission for the investigation of the crime, as the ordinary means have entirely failed.

“I am directed by Sir George Lewis to inform you that he is satisfied, upon deliberate consideration of this matter, that he would not be justified in advising her Majesty to create an exceptional and extraordinary tribunal for the purpose of interrogating persons suspected of this murder.

“To supersede, in a case of this description, the established courts of justice, which are governed by well-known and carefully-defined rules, and to establish by royal authority, in their stead, a commission exercising new and arbitrary powers of examination, unknown to the English law, would be, in his opinion, highly unconstitutional, and a departure from the principles upon which this country has long been governed.

“The doctrine, that in cases of great obscurity and difficulty, like the present, on which the existing law appears at first sight to be insufficient, that law is to be strained or altogether superseded, appears to Sir G. Lewis to be of a most dangerous description.

“The rules which govern our ordinary courts are intended not only for the detection of guilt, but also for the protection of innocence from unjust accusations; and when the crime is of so grievous a nature as to excite a strong feeling of horror and indignation in the public mind, a strict adherence to those rules is absolutely necessary for the fair and impartial administration of justice.

“I am, Sir, your obedient servant,

“H. WADDINGTON.

“The Right Worshipful the Mayor of Bath.”

But although the Government have refused to comply with the unconstitutional and dangerous request of the memorialists, they have taken measures for placing the case in the hands of a local solicitor in order to be investigated *de novo*. It is superfluous to add, that we wish this gentleman every success; but there is no

disassembling that the delay which has taken place, and the want of ability which has hitherto been displayed throughout the whole affair, have considerably added to the murderer's chances of escape.

### Rebibo.

*The Lawyer and his Profession. A Series of Letters to a Solicitor commencing Business.* By J. ORSON SMITH.  
[V. & R. Stevens & Sons, S. Sweet,  
and W. Maxwell.]

THIS little work is precisely what its title designates. Mr. Smith disclaims all intention of laying down rules for the higher branch of the Profession, or for solicitors of standing and experience—his observations are intended solely for young solicitors commencing business, and apparently for those who are without a connexion. We may not approve of *all* his suggestions, but many of them are valuable, and much useful information may be obtained from his book. Besides, we are pleased with the moral tone which pervades it.

Thus Mr. Smith states what, in his opinion, constitutes the *essential* difference between a trade and a profession, as follows:—

"In the former a man has simply to consider—of course, consistently with honesty—the best way of securing large profits to himself; whereas a man should enter the latter with the consciousness that his own profit, though his immediate object, is to be a secondary consideration, his *first* being always the advantage of those who place their confidence in him. This will hold good of all the three learned professions. No one, I think, will doubt that it is true of the law; certainly it is true of the church and of physic." This may require some little qualification, but the notion seems just in the main.

Again, on the subject of "charging:"—"You will find sufficient difficulty in arriving at the 'happy medium' in charging. . . . It is not very easy to make a fair and reasonable charge, and at the same time to satisfy your client, who expects something more—*cheapness*, in short. If the truth were told, it is mainly because it is thought that a young lawyer will do business more *cheaply* than the older members of the profession that he ever gets any business to do at all. A young solicitor is, I think, perfectly justified in getting all the business he can by obtaining a reputation for being moderate in his charges. But it is not well to go *too far* in this respect; you have, morally, no right to sell an article at less than its real value, to the prejudice of your neighbour who is exercising the same calling as yourself; by doing so, you lead the purchaser to believe that the same article is to be everywhere had at the price which he has paid you for it. . . . The best advice, in short, which I can give you is to do your work thoroughly well, and to charge for it moderately, not looking so much at the fees to which you may be actually *entitled*, as at the extent of the benefit your client has received from your services, and the amount of value involved in the business done. Your object should be to let your client feel that he has been well advised, well served, and conscientiously and reasonably charged."

So, in the letter on "giving advice," the soundness of the following will, we think, be at once recognised:—

"You are bound to advise your client to such a course as will most conduce, in your opinion, to *his interests*. . . . A man heated with passion will tell you a tale of woe and wrong sufficient to fire you with righteous indignation at the conduct of the villain who is stated to have injured him. As a man of business, however, and as one professing to be peculiarly qualified to give your client the best advice under the circum-

stances, your duty is *not* to be fired with indignation at all; and it is scarcely necessary to remind you that in all probability the 'villain' is pouring out the vials of his wrath against your client to some other solicitor, who is duly informed that your client is the concentrated essence of all that is base and rascally. Of course I am supposing rather an extreme case, but yet by no means a very uncommon one. Few men have the self-command and the good sense to remember—if they ever heard it—Lord Macaulay's excellent observation, that 'scarcely any quarrel ever happens in which the right and wrong are so exquisitely balanced that all the right lies on one side, and all the wrong on the other.' . . . Do not think I would seek to chill and deaden all your best feelings; nothing is further from my thoughts; but I would earnestly caution you against letting these influence you in a direction which will be prejudicial at once to your client's interests, and to your own success in life."

### PRISONS AND PRISONERS.

We take the following from *The Times* of the 17th August, 1860:—

"The annual reports of the Directors of Convict Prisons in England have been issued—documents necessarily of much interest now that the Penal Servitude Act retains in this country large bodies of convicts who were formerly sent abroad. Of course, these reports do not touch the county and borough prisons, in which there were at the latest return (Michaelmas last) 16,674 prisoners. During the twelvemonth 126,861 persons had been committed to those gaols, but many of them for short periods and slight offences, there being not a few who were afterwards acquitted, and 15,120 who were but debtors; and it is satisfactory to have to add that the average number of prisoners shewed a decrease, the re-committals of the same prisoners were fewer, the proportion of juvenile offenders decreased, and the punishments for prison offences diminished in a greater degree than the prison population. It is of the worst, most depraved, and most dangerous of this class that the Convict Prisons Reports treat—those who are sentenced to penal servitude, and removed from these local gaols to Government prisons to undergo their sentence, first in separated confinement, and then in associated labour. There were 11,007 prisoners in the convict prisons of England at one time or other in the year 1859; the number at the beginning of the year was 8115, and at its close 8122, and of this last number 1188 were women. In the course of the year 224 of the men were transported to Western Australia, 421 were sent to labour at the public works of Gibraltar and Bermuda, and 215 men and 20 women were released under orders of license, or, as they used to be called, tickets of leave. No less than 1837 were set at liberty in consequence of the expiration of their sentence. While in separate confinement the convicts are employed in work, and instruction is given to them—many learn there for the first time to read; they meet at school, at chapel, and in exercise, but are punished if they communicate with one another, the punishment being generally a dark cell and punishment diet. At Millbank the women made last year 43,728 shirts for a city firm, without a single rejection. In the next stage the men are employed on public works at Portland, Portsmouth, or Chatham, where they work ten hours a day when there is light enough, but are allowed half a day's schooling in the week. Endeavours are made to educate them sufficiently to qualify them for useful situations, and the effort is appreciated. They are divided into classes, according to character and conduct; and in the last few months of their time men of exemplary prison charac-

ter are placed in posts of some confidence, without any immediate supervision over them. Some small gratuities may be earned by diligence, to accumulate against the day of discharge, being then paid with precautions. Those who are only fit for light labour are sent to Dartmoor Prison, which is in a highly oxygenised and bracing spot; and convicts unfit for labour have been hitherto sent to Lewes Invalid Prison, now merging in the new prison at Woking. A considerable number of these last improve in health sufficiently to be draughted to Dartmoor. In speaking of the diet allowed them, the surgeon notes that the men most difficult to please are from the vagrant class, or from the lowest grades of society. From all these convict prisons the reports are satisfactory. The convicts behave in an orderly manner, and work well. The maintenance of such good order is, in a great measure, attributed to the system of remitting a considerable part of the sentence to well-conducted, industrious men, who appear likely to endeavour to earn an honest livelihood on their discharge. As for the question whether there is any real reformation wrought, it seems to be considered that of the regular habitual thieves there is little hope—their reformation, as Mr. S. Redgrave says, is as difficult a task to themselves as to their teachers. The experienced chaplain of Millbank Prison classifies the convicts received there in 1859 thus:—61 per cent. (869) were professional thieves, following crime as a business; 25 per cent. (304) were careless profligates, but not hardened men; 6 per cent. (89) were occasional offenders, on the whole working honestly for their living, but committing a dishonest act when a favourable opportunity occurs; the remaining 8 per cent. (108) were comparatively respectable, but had resorted to a crime to extricate themselves from difficulties, generally caused by their not having had sufficient self-denial to live within their means. Of all but the regular thieves he has hope that, with few exceptions, they leave the prison better men than when they came, and with sufficient right principle to prevent their relapsing into crime. Of the lads at Parkhurst the governor reports that in no one of the sixteen years during which he has had charge of that prison was the conduct of the inmates so satisfactory; it has been marked by order, obedience, and cheerful industry. The Directors of Convict Prisons consider that this section of the juvenile population is gradually yielding under the influence of ragged school teaching, district visiting, and the juvenile reformatory movement of the last few years. Of the female convicts (at Brixton and Fulham) the report is, that ‘they are generally in extremes.’ The most troublesome are young women who know that their ill-health will shield them from punishment. But no extent of punishment could ever keep some of them in order. Their perverse depravity makes their cases appear, humanly speaking, hopeless. These cases, however, are few. Among many at Brixton, and more generally at Fulham, (to which the best conducted are sent for final training), there is a strong desire to lead an honest life. Efforts are made to inspire them with self-respect, enable them to break off strongly-rooted evil habits, and take a lively interest in their work, with a desire to turn it to a good account hereafter. Two-thirds of the women discharged from Fulham refuge in 1859 got into situations where they were likely to do well, and were at the end of the year going on satisfactorily. Both to men and women the Discharged Prisoners’ Aid Society is rendering most important service at a most critical season. But any attempt to trace prisoners for a length of time in after life interferes with their object of hiding their disgrace and merging in society. A suggestion made by the chaplain of Parkhurst raises a grave question; he considers that, as there is a system of liberating before the time, there should also be a discre-

tionary power to detain after the time. It can do no good to release such men as one of whom we are here told, who said plainly, ‘It’s not likely I’ll work for 15s. a week when I can get pounds.’ But, at all events with very many, much improvement is now effected by prison discipline and teaching. The prisoners are treated fairly, with consideration and humanity, often with great judgment; they have no just ground of complaint; they are accustomed to regular habits and self-restraint, and have held out to them every encouragement to good conduct and industry. Such seed will surely bring some harvest.”

The Chief Justice of the Common Pleas has appointed Mr. T. W. Erle, now Registrar of Certificates and Affidavits of Acknowledgments, to be Associate of the Common Pleas, in the room of Mr. John Jervis, deceased. The Chief Justice has also appointed Mr. W. Morgan Bennett a Master of the Court, in the room of Mr. John H. Cancellor, deceased.—*Observer*.

BOW-STREET POLICE COURT.—We have to announce the decease of David Jardine, Esq., one of the magistrates of this court, and recorder of Bath. Mr. Jardine was called to the bar in 1823, and was the author of “A Reading on the Use of Torture in England,” and some other works.

COMMISSIONER TO ADMINISTER OATHS IN CHANCERY.—The Lord Chancellor has appointed Uttrick Bainbridge, Gent., of Alston, Cumberland, to be a Commissioner to administer oaths in the High Court of Chancery in England.

at 1, London, aud. ac.—*William Fryer*, Norwich, shoe manufacturer, Sept. 28 at 12, London, aud. ac.—*Simon Sander*, St. Mary-axe, London, and Nelson-square, Surrey, merchant, Sept. 28 at half-past 1, London, aud. ac.—*Alfred Penny*, Richmond-villas, Holloway, Middlesex, coal merchant, and Lloyd’s Coffee-house, London, underwriter, Sept. 29 at 12, London, aud. ac.—*Richard Ellis*, Northampton, chemist, Sept. 29 at 12, London, aud. ac.—*George Gridley*, Matilda-st., Caledonian-road, Islington, Middlesex, coachmaker, Sept. 28 at half-past 12, London, aud. ac.—*George Curtis*, Landport, Hampshire, licensed victualler, Sept. 29 at half-past 12, London, aud. ac.—*Charles Henry Gilks*, Union-row, Tower-hill, Wapping, Middlesex, ironmonger, Sept. 28 at 2, London, aud. ac.—*John Green*, Philpot-lane, City, commission agent, Sept. 28 at 12, London, aud. ac.—*John Williams*, Flynnon Groyw, Llanasa, Flintshire, grocer, Oct. 1 at 11, Liverpool, aud. ac.—*Robert Davies*, Mochdre, Llandrillo-yu-rhos, Denbighshire, innkeeper, Oct. 11 at 11, Liverpool, div.

#### CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

*Thomas Lewis Ingram*, Lupus-street, Pimlico, Middlesex, merchant, Oct. 11 at 12, London.—*Joseph Lawson*, Fenchurch-street, City, shipbroker, Oct. 9 at 2, London.—*Henry Potter* and *Samuel James John Hind*, Sutton, Surrey, builders, Oct. 11 at 11, London.—*Thomas Coates*, Bridge-road, Lambeth, Surrey, linendraper, Oct. 11 at 1, London.—*William Williams*, Bristol, linendraper, Oct. 16 at 11, Bristol.—*Elizabeth Wright*, Higher Broughton, near Manchester, lodging-house keeper, Oct. 9 at 12, Manchester.—*Thomas Elvins Pountney*, Bromsgrove, Worcestershire, licensed victualler, Nov. 2 at 11, Birmingham.—*James Chilton*, Stone, Staffordshire, shoe manufacturer, Nov. 2 at 11, Birmingham.—*Henry Pratt Ballard* and *Samuel Newsome*, Coventry, ribbon manufacturers, Nov. 1 at 11, Birmingham.

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*John Paget*, Brierley-hill, Staffordshire, licensed victualler.—*Benjamin James*, Brierley-hill, Staffordshire, currier.

#### SCOTCH SEQUESTERATIONS.

*Rev. George Gordon*, Glenrinnes, Mordlach, Banffshire, farmer.—*John Comrie*, Kilsyth, mason.—*Robert Gordon*, Mains, Rhynie, Aberdeenshire, farmer.—*Robert M’Leod*, Glasgow, jeweller.—*John Hamilton*, Kilbirnie, baker.



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**THE LIFE ASSOCIATION of SCOTLAND** has adopted a NEW SCHEME of "UNCONDITIONAL ASSURANCE," which entirely obviates the objections to the ordinary system of other offices.

Omission to pay a Premium by oversight does not affect the Assurance, and, after a time, payment may be intentionally postponed for a year.

The Assured is not subject to any restriction as to Occupation or Residence; and NO EXTRA PREMIUMS can ever be payable.

The ASSURANCE is virtually Non-forfeitable and Unquestionable.

The POLICY-HOLDER, on surrendering his Policy, can withdraw a fixed and unusually large proportion of his payments, or take a paid-up policy for double the amount; or he may withdraw the same sum as a Loan, and still continue the Policy.

So complete and satisfactory a system of Unconditional Assurance is not to be found in the arrangements of any other Assurance Office. Explanatory Pamphlets may be had on application.

ENTRANTS to the PROFIT CLASS on or before the 5TH DECEMBER NEXT will secure ONE YEAR'S BONUS more than will be allocated to later entrants.

The LIFE ASSOCIATION of SCOTLAND was founded in 1838, and has issued upwards of THIRTEEN THOUSAND POLICIES for Life Assurances, amounting to nearly SIX MILLIONS STERLING. The ANNUAL INCOME is upwards of 160,000L. The Policies under the original Scheme have also for many years been unusually free from restrictions and imperfections, and the Assured have received large benefits. The Prospectuses of this Scheme also may be had on application.

A MEDICAL OFFICER in attendance daily at half-past twelve o'clock. THOS. FRASER, Res. Sec.

London, 20, King William-street, City, E.C.

**GUARDIAN FIRE AND LIFE ASSURANCE COMPANY.**

No. 11, Lombard-street, London, E. C.

ESTABLISHED 1874.

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**LIFE DEPARTMENT.**—Under the provisions of an Act of Parliament, this Company now offers to new Insurers EIGHTY PER CENT. of the PROFITS, at Quinquennial Divisions, or a low Rate of Premium without participation of Profits.

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**LOCAL MILITIA and VOLUNTEER CORPS.**—No extra premium is required for service therein.

**INVALID LIVES** assured at corresponding Extra Premiums.

**LOANS** granted on Life Policies to the extent of their values, if such value be not less than 50L.

**ASSIGNMENTS of POLICIES.**—Written Notices of, received and registered.

**MEDICAL FEES** paid by the Company, and no charge for Policy Stamps.

**NOTICE IS HEREBY GIVEN,** that Fire Policies which expire at Michaelmas must be renewed within fifteen days at this Office, or with Mr. SAMS, No. 1, St. James's-street, corner of Pall-mall; or with the Company's Agents throughout the Kingdom; otherwise they become void.

Losses caused by Explosion of Gas are admitted by this Company.

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## GAZETTES.—FRIDAY, Sept. 21.

## BANKRUPTS.

JOHN GLADWIN DICKINSON and JOSEPH AUCHTERLONIE CRONKTON, Aldermanbury, City, shirt manufacturers, Oct. 4 at 2, and Nov. 1 at 1, London: Off. Ass. Johnson; Sols. Sole & Co., Aldermanbury.—Pet. f. Sept. 18.

CHARLES UNDERWOOD, James-street, Covent-garden; Drury-lane; and Long-acre, Middlesex, grocer, Oct. 4 at half-past 11, and Nov. 8 at 12, London: Off. Ass. Bell; Sols. J. & J. H. Linklater & Co., 7, Walbrook.—Pet. f. Sept. 18.

GEORGE HARRIS, Woking, Surrey, tailor, Oct. 4 at half-past 2, and Nov. 8 at 11, London: Off. Ass. Johnson; Sol. Underwood, 89, Chancery-lane.—Pet. f. Sept. 17.

JOSEPH HARDWICK, Strand, Middlesex, tailor, (trading in partnership with William Henry Wicks, under the style of Hardwick & Wicks), Oct. 4 at 11, and Nov. 1 at 2, London: Off. Ass. Johnson; Sol. King, 25, College-hill.—Pet. f. Sept. 19.

THOMAS BAGNALL PICKLES, Great York-mews, Baker-street, Portman-square, Middlesex, hackney coach proprietor, Oct. 4 at 12, and Nov. 8 at 1, London: Off. Ass. Johnson; Sols. Willoughby & Co., Clifford's-inn.—Pet. f. Sept. 18.

JAMES SHERRY, Portsea, Southampton, shoemaker, Oct. 6 at 11, and Nov. 8 at 2, London: Off. Ass. Bell; Sols. Low, Portsea; Low, 65, Chancery-lane, London.—Pet. f. Sept. 21.

JAMES KELITA HARDY, Fenchurch-street, City, annatto manufacturer, (lately trading at Brewhouse-yard, St. John-street, Clerkenwell, Middlesex, in partnership with Edward Clarke Walker), Oct. 1 at 2, and Nov. 6 at 12, London: Off. Ass. Bell; Sols. Mason & Co., 7, Gresham-street, London.—Pet. f. Sept. 20.

GEORGE HUNTINGTON, Great Suffolk-street, Borough, Surrey, shoemaker, Oct. 1 and 29 at half-past 12, London: Off. Ass. Pennell; Sols. Harrison & Lewis, 6, Old Jewry, London, (and not 21, Great Suffolk-street, Borough, as before advertised).—Pet. f. Sept. 13.

GEORGE CANNING MOULTON, Gresham-street, City, late of Brunswick-square, Bloomsbury, Middlesex, dealer in India rubber, Oct. 4 at 1, and Nov. 5 at 2, London: Off. Ass. Pennell; Sols. Spyer & Son, 30, Broad-street-buildings, City.—Pet. f. Sept. 10.

GEORGE ERLAM, Upper-street, Islington, Middlesex, woollen draper, Oct. 4 at half-past 12, and Oct. 31 at 1, London: Off. Ass. Stansfeld; Sol. Reed, 1, Guildhall-chambers, City.—Pet. f. Sept. 21.

WILLIAM ANTONY FRESTON, Maesteg, Glamorgan-shire, ironmaster, Oct. 2 and Nov. 6 at 11, Bristol: Off. Ass. Miller; Sols. Brittan & Sons, and Abbott & Co., Bristol.—Pet. f. Sept. 15.

THOMAS PLUMMER DUNN, Woodchester, Gloucestershire, woollen flock dealer, Oct. 8 and Nov. 12 at 11, Bristol: Off. Ass. Acraman; Sol. Winterbotham, Stroud.—Pet. f. Sept. 20.

WILLIAM HARGREAVES and WILLIAM SLATER, Bradford, Yorkshire, whitesmiths, Oct. 5 and 26 at 11, Leeds: Off. Ass. Young; Sols. Lees, Bradford; Bond & Barwick, Leeds.—Pet. d. and f. Sept. 17.

## MEETINGS.

Thomas Lewis Ingram, Bathurst, River Gambia, Western Africa, and Moreton-place and Lupus-street, Pimlico, Middlesex, merchant, Oct. 11 at 12, London, and ac.—Robert Kemp Philp, New-street, Fetter-lane, City, publisher, Oct. 9 at 1, London, and ac.—James Heseltine, Norwich, hotel-keeper, Oct. 4 at half-past 12, London, and ac. and div.—Joseph John Richard Eyhe, George-yard, Milton-street, Cripplegate, City, carman, Oct. 4 at half-past 1, London, and ac.—Alfred Bradley Bloxam, Southampton-street, Strand, Middlesex, wine merchant, Oct. 4 at 1, London, and ac.; Oct. 12 at 1, div.—George Stone Hubbard, Aldermanbury, City, warehouseman, Oct. 4 at 12, London, and ac.; Oct. 12 at 12, div.—Abraham Davis, Camden-terrace, Camden-town, Middlesex, commission agent, Oct. 4 at 11, London, and ac.—John Goodall Brett, Hornchurch, Essex, grocer, Oct. 4 at half-past 11, London, and ac.—Edward Staff Prior and Alfred Staff Prior,

Bishopgate-street, Middlesex, coal merchants, Oct. 4 at half-past 11, London, and ac. sep. est. of Alfred Staff Prior.—Henry Cooper, Great Cambridge-street, Hackney-road, and Pownall-terrace, Queen's-road, Dalston, Middlesex, shoe manufacturers, Oct. 4 at 12, London, and ac.—David Widdowson, Nottingham, lace manufacturer, Oct. 11 at 11, Nottingham, and ac.—Stephen Powell, Bourn, Lincolnshire, coach builder, Oct. 11 at 11, Nottingham, and ac.—Daniel Swift, Deeping St. James, Lincolnshire, butcher, Oct. 11 at 11, Nottingham, and ac.—Frederick Appleyard, Bradford, Yorkshire, tanner, Nov. 5 at 11, Leeds, and ac. and div.—George Gregg, Sheffield and Wath-upon-Deane, Yorkshire, currier, Oct. 6 at 10, Sheffield, and ac.—W. Crofts, Strand, Middlesex, coffee-house keeper, Oct. 15 at 11, London, div.—Wm. Ferguson, Paternoster-row, and New-court, Middle Temple, City, bookseller, Oct. 12 at half-past 1, London, div.—Isaac Rose, Tooley-street, Southwark, Surrey, jeweller, Oct. 12 at half-past 11, London, div.—Alexander Jacobson, Tysoe-street, Clerkenwell, Middlesex, dealer in watches, Oct. 12 at 1, London, div.—George Perigal and Charles Brady, Clement's-lane, Lombard-street, City, wine merchants, Oct. 12 at 11, London, div.—Henry Dunington, Nottingham, glove cloth manufacturer, Oct. 18 at 11, Nottingham, and ac. and div.—Thomas Bonser, Plungur, Leicestershire, auctioneer, Oct. 23 at 11, Nottingham, and ac. and div.—John Martin, Nottingham, clothier, Oct. 25 at 11, Nottingham, and ac. and div.—Bachel Cherrington, Denington, Lincolnshire, druggist, Oct. 25 at 11, Nottingham, and ac. and div.—Samuel Bennett, Nottingham, tailor, Oct. 25 at 11, Nottingham, and ac. and div.—R. Heafford, Loughborough, Leicestershire, auctioneer, Oct. 25 at 11, Nottingham, and ac. and div.—Samuel Peach, Sneinton, Nottinghamshire, draper, Oct. 25 at 11, Nottingham, and ac. and div.—Henry Eaton Woodruff, Nottingham, lace manufacturer, Oct. 18 at 11, Nottingham, div.—Sophia Anne Aulton, Nottingham, smallware dealer, Oct. 18 at 11, Nottingham, div.—Wm. Revitt, Sheffield, Yorkshire, cutlery manufacturer, Oct. 13 at 10, Sheffield, div.—William Hebdin, Leeds, Yorkshire, Arthur Oates Hebdin, Parliament-street, Westminster, Middlesex, and John Browne the elder, Leeds, Yorkshire, merchants, Oct. 12 at 11, Leeds, div. sep. est. of Arthur Oates Hebdin.

## CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Thomas Edw. Wright, Belmont-place, Wandsworth-road, Surrey, grocer, Oct. 12 at 1, London.—John Goodall Brett, Hornchurch, Essex, grocer, Oct. 12 at 11, London.—Wm. G. Gibson, Godalming, Surrey, tanner, Oct. 12 at 11, London.—Wm. Kaye, Clayton West, High Hoyland, Yorkshire, grocer, Nov. 5 at 11, Leeds.—John Richard Teale, Leeds, Yorkshire, cabinet maker, Nov. 5 at 11, Leeds.—Frederick Appleyard, Bradford, Yorkshire, tanner, Nov. 5 at 11, Leeds.

To be granted, unless an Appeal be duly entered.

Wm. Bound the younger, Hanworthy, Poole, seed merchant.—Charles F. Boyce, Melton Mowbray, Leicestershire, innkeeper.

## PARTNERSHIP DISSOLVED.

John Stone, Wm. G. Powell, and Wm. Chamberlayne, Bath, solicitors and attorneys.

## SCOTCH SEQUESTRATIONS.

Clerihew & Donaldson, Banchory Ternan, bootmakers.—Robert Cunningham, Hamilton, Lanarkshire, spirit dealer.—James Allan, Glasgow, merchant.

## TUESDAY, Sept. 25.

## BANKRUPTS.

OLIVER ALFRED SEAGOOD and HENRY WILLIS SMITH, Wellington-road, Holloway, Middlesex, builders, Oct. 6 at 12, and Nov. 8 at 11, London: Off. Ass. Johnson; Sol. Pearpoint, 50, Leicester-square.—Pet. f. Sept. 29.

EDGAR ROBERT RAMAGE, Bond-court, Walbrook; Upper Thames-street, London; and Gloucester-cottage, Peckham, Surrey, wine cooper, Oct. 6 at 1, and Nov. 6 at 2, London: Off. Ass. Bell; Sol. Ellaby, 6, Pancras-lane.—Pet. f. Sept. 22.

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## THE JURIST.

LONDON, SEPTEMBER 29, 1860.

Among the bills which were brought into Parliament during the last session, but failed in passing into law, is one introduced into the House of Lords by Lord Chelmsford to carry out, in a modified form, a theory which has prevailed for some time among a certain school of law reformers—that grand juries are a useless and injurious appendage to our criminal courts. In furtherance of this view, two bills for their almost total abolition within the metropolitan districts were introduced into the House of Commons by that learned Lord when Sir Frederick Thesiger, which, however, failed of success; although it is not improbable that the discussions on them gave rise, in some measure, to a salutary statute—the Vexatious Indictments Act, to which we shall advert presently.

The principle involved in these bills was, whether the grand jury ought to be abolished as bad in principle; or whether, supposing the objections taken to it to be not altogether groundless, they are such as could be removed by judicious measures of reform; or, even if this could not be effected, whether they are not overborne by the inherent advantages of the system.

The institution of the grand jury rests on three principles—first, that no man ought to be subjected to the inconvenience, danger, and odium of a public trial for any serious offence by the mere action of the officers of the Crown, or of any tribunal appointed by it—a salutary guard to the liberty of the subject; secondly, that every subject has a right to bring a criminal to justice, whether the so doing be agreeable or otherwise to the Executive; thirdly, the placing in the hands of a number of persons taken from the upper classes among the people a right, by presentment, of their own knowledge, to bring to the notice of the Executive and of

society the existence of any evils or abuses within the district where they reside, even though neither the Executive nor an individual has founded, or perhaps could legally found, proceedings upon them. The constitutional functions of the grand jury are well described by the present Common Serjeant (Mr. Thomas Chambers) in a paper read by him before the Juridical Society in December, 1858, the perusal of the whole of which we strongly recommend to our readers.

“When a conflict is going on between prerogative and liberty, between popular rights and the power of the Crown, or when some obnoxious law is sought to be enacted or repealed, at such times the press and the people are both stimulated to unwonted activity and energy, and the liberty of speaking and printing is taken full advantage of. The popular passions find vent and voice at great public meetings, where vehement speeches are made, strong resolutions passed, strong memorials and petitions adopted. All this is done roughly—sometimes even fiercely; much that is unwise, much that is unjust, much that is untrue, is uttered and believed. Authority becomes provoked, and attempts measures of repression; and it commonly begins by selecting the most prominent and noisy exponents of the popular will as the subjects of indictment for seditious or treasonable libel; or it goes lower, and apprehends the most violent members of a mob, and charges them with seditious tumult and riot. Or the Government may resort to more extreme measures—may call in the aid of the military, and the blood of the people may be spilt on the scene of some immense gathering; and then, in all probability, the criminal law will be invoked on both sides—the Government arming itself with indictments against individuals for sedition or treason; the people defending themselves with indictments against officers and soldiers for manslaughter or murder. In such crises as these the grand jury has, over and over again, rendered invaluable ser-

vice: the subject has been protected by them in the fullest exercise of his right to demand (though clamorously) the redress of his grievances; the Crown has been vindicated in its constitutional efforts to repress sedition and insurrection. The force of the shock is broken when order and liberty meet in these their rudest conflicts. The bitterness of the strife is allayed, when the rulers and the populace are in angry collision with each other, by a court so constituted as to have sympathies with both parties, and fitted, therefore, to act as mediator between them. The harshness of authority is mitigated by its acting through such an organ; the lawless impulses of the disaffected subside when they have the opportunity of appeal to a proper tribunal. The scene of conflict is thus shifted from tavern halls and open commons to the arenas of justice. Both parties change the weapons of their warfare—both appeal to the law. The demagogue stops his inflammatory harangue to advise with his lawyer; the Government recalls its troops and instructs the Attorney-General. The result of this is, that the greatest political questions come on for discussion in our criminal courts, and come on under circumstances very favourable for their correct solution. By ignoring a bill, the grand jury, in sympathy with a people oppressed, calmly rebukes the Crown—by finding a bill, they tranquilly coerce the lawlessness and violence of the mob; they stand midway between the opposing parties, and avert a direct shock; they save the authorities from a more mortifying defeat by stopping their proceedings in limine; they save liberty from discredit by chastising its excesses by the law; and they accomplish all these purposes better than any other tribunal which could be devised to replace them.

\* \* \* \* \*

“But the grand jury not only interposes a shield between the Crown and the subject to protect the latter from the oppression of power; it gives to him also a weapon wherewith he may assail the organs and ministers of prerogative, for he may go with his bill of indictment before that court, and accuse of malversation, or undue rigour, or dishonesty, or injustice in the execution of his functions, any officer of the Government; and may succeed in putting the accused on his public trial at a time when it might be difficult to find a Crown-appointed magistrate, sitting in open court, willing to place himself in an attitude of hostility to the authorities, by holding the accused person to bail. Were this right withdrawn the subject might become impatient and irritated beyond endurance by petty acts of extortion or harshness, for which the law offered him no adequate redress; were this liability removed, those in places of authority might be encouraged to misdeemean themselves in their office.”

Let us now see what are the arguments used against grand juries by the school of law reformers to which we have alluded. First, they argue against the system generally, that this institution was, or at least with the progress of time has become, valueless, and if so, an hindrance to the administration of justice; that the secrecy of the tribunal renders it irresponsible; that it furnishes facilities for fraud and oppression, by giving an opportunity to a wicked person to go before a secret tribunal, and, without notice to the party accused, to get a bill of indictment found against him, which, whether true or false, may be used as an engine of extortion—further proceedings being abandoned if the prosecutor can be bribed—so that justice is defeated if the defendant be guilty, or an infamous wrong is inflicted upon him if he be innocent. In support of this, Sir F. Theigier assured the House of Commons, when introducing one of his bills, that some old women were almost frightened out of their senses at the apprehension of bills of indictment being preferred against them. And, with respect to metropolitan grand juries in particular,

it is further urged, that all cases of alleged crime are so well sifted by the police magistrates as to render all further preliminary investigation wholly needless.

In answer to the last of these arguments, it is to be observed, that, so far as the constitutional functions of the grand jury are concerned, it is impossible to take a distinction between metropolitan and provincial districts. However excellent the metropolitan police magistrates may be, still they are the servants of the Crown, and as such ~~not~~ the proper persons to decide a question which the constitution has wisely entrusted to the people. Nay, more, the entrusting such a power to them would be sure in time to work their deterioration, by holding out a temptation to the Executive to appoint to those offices persons in whom the sense of justice and constitutional freedom were not strong. As to the secrecy of the tribunal, it is one of its advantages, in many cases at least; and the proposal to abolish it on this account amounts to saying, that in no case ought proceedings to be taken to bring a criminal to justice without first giving him notice of the intention, and consequently an opportunity to escape condemnation by flight. And although the first of the above arguments has considerable foundation in fact, the remedy for the evil consists, not in abolishing the grand jury, but in taking security from persons preferring bills before them to go on with the prosecution if the bills are found, and perhaps also by strengthening the law against groundless prosecutions. There is a good precedent for the former of these, which existed at the time Sir F. Theigier first attempted to abolish the grand jury. Formerly any person might file a criminal information in the Queen's Bench for a misdemeanour against any other, and such informations were frequently resorted to as a means of extorting money; (see Arch. Crown Office Prac. 17); but the abuse was effectually put a stop to by the 4 & 5 Will. & M. c. 18, which enacts, “The Clerk of the Crown in the King's Bench shall not, without express orders given by the Court, in open court, receive or file any information for a misdemeanour, before he shall have taken or shall have delivered to him a recognisance from the person procuring such information to be exhibited, in the penalty of 20*l.*, conditioned to prosecute such information with effect.” And the Legislature last year acted on this principle in the Vexatious Indictments Act, 22 & 23 Vict. c. 17, which contains the following important provisions:—

By sect. 1 no bill of indictment for certain offences shall be presented to or found by any grand jury, unless the prosecutor or other person presenting such indictment has been bound by recognisance to prosecute or give evidence against the person accused of such offence, or unless the person accused has been committed to or detained in custody, or has been bound by recognisance to appear to answer to an indictment to be preferred against him for such offence, or unless such indictment for such offence be preferred by the direction or with the consent in writing of a judge of one of the superior courts of law at Westminster, or of her Majesty's Attorney-General or Solicitor-General, or (in the case of an indictment for perjury) by the direction of any court, judge, or public functionary authorised by the 14 & 15 Vict. c. 100, to direct a prosecution for perjury.

By sect. 2, if a charge or complaint is made of any of those offences, and a justice of the peace refuses to commit or hold the party to bail, if the prosecutor desires to prefer an indictment the justice may take his recognisance.

This statute extends to the following offences, and it may well be a question whether it might not be beneficially extended to many others, and perhaps even to all bills of indictment not really prosecuted by the Executive:—Perjury, subornation of perjury, comp-

racy, obtaining money or other property by false pretences, keeping a gambling-house, keeping a disorderly house, and any indecent assault.

But, notwithstanding the precedent supplied by the 4 & 5 Will. & M. c. 13, the failure of his two former bills, and the passing of the Vexatious Indictments Act, Lord Chelmsford, in the House of Lords, did not lose sight of the idea cherished by him as Sir F. Thesiger in the House of Commons. Still impressed with the notion of the inutility of the metropolitan grand juries, he brought in a bill "to make better provision concerning the procedure against persons charged with indictable offences within the metropolitan district," under which modest and unpretending title is concealed, though in a diluted form, the vicious principle we have been discussing. This bill passed the House of Lords, but not the House of Commons. It provided, that after a person had been committed to take his trial by a metropolitan police magistrate, an information, to have the effect of the finding of a grand jury, should be filed in lieu of an indictment. But, evidently pressed by the weight of the arguments used against his former attempts at legislation upon this object, there was a clause empowering the prosecutor to prefer an indictment in the event of the magistrate dismissing the charge; thus placing the prosecutor in the odious and difficult position of pressing a charge that had been rejected by a magistrate—a topic sure to be urged to a tribunal with most mischievous effect by the accused and his counsel. Pressed also by the constitutional objection, there was likewise a proviso that nothing therein contained should apply to "any charge of treason or misprision of treason, or of any other offence against her Majesty, the State, or the Government; nor to any charge of any nuisance to any highway, bridge, or river, or of any nuisance affecting the safety or health of any of her Majesty's subjects." The first clause of this sentence is evidently framed on the assumption, that if an offence is against the State or Government, that fact must appear on the face of the proceedings in the first instance, and can neither lurk under a charge of an offence apparently of a different character, or be developed in the course of the proceedings. As already stated, this bill did not pass into law.

The attack on the grand jury system in our day, as observed by the Common Serjeant in the paper already quoted, is a signal example of a tendency which some time back was more active than at present. "The distinguishing feature," he remarks, "of our English administrative system, both civil and criminal, is its popular element. The distinguishing feature of all our modern changes of it is the introduction of a professional and official element. . . . The effect of our modern reforms has been to withdraw the people from the tribunals, and replace them by officials—to have more judges and fewer juries."

"Narrow reasons, plausible enough—special objections, not without weight—may be assigned as the ground of changes which may have wider consequences than the reformer contemplates. Cheapness and speed may be attained at a cost incalculable. My own opinion certainly is, that the stream of justice is not only more picturesque, but more useful, and more fresh and wholesome, when it winds, perhaps slowly, between devious but natural banks, than when it rushes through professional and official conduits, where it not only loses a grace, but may contract a hardness."

We trust that, with the failure of Lord Chelmsford's bill of 1860, we have witnessed the last attempt to overturn one of the most ancient and valuable institutions of the country; and that such attempts will be replaced by sound and well-considered measures to increase the efficiency of the grand jury, by the removal of whatever either was objectionable in its ori-

ginal constitution, or, through lapse of time or altered circumstances, has become injurious at the present day.

## REPORT OF THE SELECT COMMITTEE OF THE HOUSE OF COMMONS ON MERCHANT SHIPPING.

THE Report of the Select Committee of the House of Commons, which was appointed to inquire into the state of merchant shipping, the operation of the burthens and restrictions especially affecting merchant shipping, and of the following statutes—the 9 & 10 Vict. c. 93, (an Act for compensating the Families of Persons killed by Accidents); the Merchant Shipping Act, 1854; the Merchant Shipping Amendment Act, 1855; the Passenger Act, 1855; and the Chinese Passenger Act, 1855—is a very important document, to the principal parts of which we propose to draw attention.

The following are the subjects to which it relates:—

1. Navigation laws.
2. Belligerent rights at sea.
3. Liability of shipowners.
4. Light dues.
5. Ballast.
6. Pilotage.
7. Local charges and passing tolls.
8. Recent legislation.
9. Merchant Shipping Act and shipping offices.
10. Passenger Act and Chinese Passenger Act.
11. Stamp duties.

For the 4th, 5th, 6th, and 7th of these we refer our readers to the Report itself, and now proceed to the consideration of the remainder.

### 1. Navigation Laws.

This portion of the Report is of a political and social rather than a legal character. It will be sufficient to transcribe the following passages:—

"The policy of the repeal of the Navigation Laws, and of the expediency of reconsidering that much-contested measure, has been prominently brought under the notice of your committee; but whatever may have been the complaints preferred against the policy of the repeal of these laws in its general tendency, not one of the witnesses examined before your committee has proposed to recur, in its entirety, to the restrictive system which prevailed previously to 1850. Some witnesses, anxious to find a remedy for the present distress, go so far as to enunciate the principle of making a reservation to British ships of our colonial trade, and advocate the re-establishment of a monopoly of the carrying trade to and from all our colonial possessions. But the present extent, diversified interests, and increasing power of our possessions abroad offer insuperable obstacles to the re-imposition of restrictions on their trade; and the growing independent feelings of our colonists would revolt against a system which would place the grower of British plantation sugar and coffee in the West Indies at a greater disadvantage than at present exists, especially as against the producer of slave-grown sugar and coffee in Brazil and Cuba. A serious proposal to revert to an exclusive colonial system of navigation, the grievance which led mainly to the separation from England of the vast territory constituting the United States, might endanger the tenure of our other possessions, now growing every day more and more powerful. Your committee, therefore, looking especially to our relations with Canada, our possessions in the East and West Indies, and, above all, in Australia, think it their duty unhesitatingly to declare their opinion that any proposal, having for its object to re-establish an exclusive monopoly of the carrying trade to and from our colonial possessions, must, both on



political and commercial grounds, be rejected as impracticable; and that while it would be unjust to our fellow-subjects in the colonies, it might embroil us with foreign powers, to whom we are bound by existing treaties.

"The question, however, of the expediency of requiring foreign powers having colonial possessions to reciprocate every advantage to our navigation which Great Britain has accorded unconditionally to them, is one which demands peculiar attention. The British shipowners, who carry on the present restricted and scarcely tolerated intercourse with the colonies of France, Spain, and Portugal, find their ships placed at an immense disadvantage in the unequal competition which they have to encounter, while they have the mortification to see foreign ships resort to our own colonies, and secure much higher freights than our own ships when chartered to a port in Europe.

"Your committee still hope that, through the representations of our diplomatic agents, the European States which hesitate to reciprocate a liberal system of navigation may be induced to yield to our friendly demands, in order to avoid the possibility of having recourse to any measures which may bear even the appearance of loosening the ties of amity which now subsist.

"As regards the Government of the United States, your committee feel deeply disappointed that they have not taken a more liberal course in regard to their coasting trade. The expectations entertained that the United States Government would yield the point now contended for, provided we ceded our coasting trade to American vessels, have resulted in disappointment. So strong is this feeling, that it has been pressed upon the attention of your committee from various quarters, that as the Americans did not possess any colonies, and consequently gave no equivalent in return for the cession of our colonial trade to them, and that as the trade from the eastern coast of the United States to California, either by way of Panama or round Cape Horn, has no analogy to that which is deemed a coasting trade, we ought to have no hesitation in excluding the ships of the United States from our colonial carrying trade, with a view to bring their shipowners to a juster sense of what is due to our friendly reclamations.

"But, though your committee are not prepared to recommend the adoption of this course, they are of opinion that the unremitting attention of her Majesty's Government should be directed to this important question, with a view to remove, if possible, the last and only obstruction to a more free and unrestricted commercial and maritime intercourse between the United States and this country."

## 2. *Belligerent Rights at Sea.*

This part of the Report we give in extenso:—

"The question of belligerent rights at sea, with reference to merchant shipping, affects alike the British shipowner in the prosecution of his business, and the general interests of Great Britain, and therefore the evidence given on the subject has received from your committee that attention which its gravity demands.

"Great Britain formerly asserted principles of the law of nations with reference to the rights of belligerents and neutrals, though other nations defended maxims in some points differing from our own\*.

"But in the war with Russia in 1854, England having formed an alliance with France, both nations waived their rights to confiscate enemy's goods on board neutral ships, as also neutral goods, in either case, not contraband of war, found on board an enemy's ship.

This mutual but provisional waiver of belligerent rights placed the allies in harmonious action, and practically countenanced the principle that 'free ships make free goods.' Upon the return of peace, the Declaration of Paris, of April, 1856, signed by Austria, France, Great Britain, Prussia, Russia, Sardinia, and Turkey, gave a formal sanction to this principle. Privateering was also abolished.

"America was invited to be a party to this general international agreement, but demurred, and coupled at first her assent to the abolition of privateering with the condition that private property at sea should no longer be subject to capture. Finally, she refused to be a party to a convention whereby she would be precluded from resorting to her merchant marine for privateering purposes in case she became a belligerent. But this is not surprising, for the United States has obtained recognition of the rights of neutrals for which she contended throughout a former period of hostilities; and Great Britain has surrendered her rights without any equivalent from the United States. Our shipowners will thereby be placed at an immense disadvantage in the event of a war breaking out with any important European power. In fact, should the Declaration of Paris remain in force, during a period of hostilities, the whole of our carrying trade would be inevitably transferred to American and other neutral bottoms.

"From the evidence given by various witnesses, it appears that at a recent period, upon a mere rumour of war in Europe, in which it was apprehended that Great Britain might be involved, American and other neutral ships received a decided preference in being selected to carry produce from distant parts of the world to ports in Europe, whereby, even in a period of peace, British shipowners were seriously prejudiced. It seems, therefore, that the state of international law, with reference to belligerent rights affecting merchant shipping, cannot remain in its present state; for whilst England may be involved in any great European war, the United States is almost certain to be neutral; and thus our great maritime rival would supplant us in the carrying trade.

"We must therefore either secure the general consent of all nations to establish the immunity of merchant ships and their cargoes from the depredations of both privateers and armed national cruisers during hostilities, or we must revert to the maintenance of our ancient rights, whereby, relying upon our maritime superiority, we may not merely hope to guard un molested our merchant shipping in the prosecution of their business, but may capture enemies' goods in neutral ships, and thus prevent other nations from seizing the carrying trade of the kingdom during a state of hostilities.

"Your committee consider it their duty to call the attention of your Honourable House to the great importance of this question, which, if not solved during a period of peace, may cause incalculable embarrassment at the outbreak of a war. It is doubtless the prerogative of the Crown to initiate proper measures to maintain the honour and guard the interests of the country in this respect. Your committee, however, cannot but express their opinion that a compact like the Declaration of Paris, to which a great maritime power has refused to be a party, may, in the event of hostilities, produce complications highly disastrous to British interests. As matters stand, England is under all the disadvantages of the want of reciprocal pledges on the part of the United States to refrain from privateering, or from the attempt to break a blockade, which, as heretofore, a sense of self-preservation might compel Great Britain to establish; while powers so unpunished, urged by every motive of self-interest, would be in a position to inflict the deepest injury upon British interests, under the same unjustifiable pretences as

\* This is not well expressed. On a subject of such immense importance clearness and precision are indispensable. —Ed.



were put forth during the war at the commencement of the present century.

"Your committee have thought it their duty thus briefly to point out to your Honourable House the present unsatisfactory position of this question as it immediately affects British merchant shipping. They have done so in the confidence that the whole subject will receive due attention in that quarter where the responsibility rests of taking such measures, in concurrence with foreign powers, as may place the present international regulations on a better footing. Your committee are aware that grave objections have been urged by high authorities against any further step in advance; but they cannot close this brief comment on so important a question without expressing a hope that your Honourable House will agree with them in the opinion, that in the progress of civilisation, and in the cause of humanity, the time had arrived when all private property, not contraband of war, should be exempt from capture at sea. Your committee are of opinion that Great Britain is deeply interested in the adoption of this course. This country has at all times a much larger amount of property afloat than any other nation, and consequently requires a very large naval force to protect her merchant shipping, perhaps at a time when the whole of our ships of war may be urgently wanted to defend our shores."

(To be continued.)

**JOSEPH EBENEZER COX**, High-street, Lambeth, Surrey, dealer in stone-ware pipes, Oct. 6 at 11, and Nov. 8 at half-past 1, London: Off. Ass. Johnson; Sol. Robinson, 17, Ironmonger-lane.—Pet. f. Sept. 24.

**JAMES ANSELL**, Seven Sisters-road, Upper Holloway, Middlesex, contractor, Oct. 6 at half-past 11, and Nov. 13 at 11, London: Off. Ass. Ball; Sol. Proudfoot, 24, John-street, Bedford-row.—Pet. f. Sept. 24.

**JOHN JULIAN**, Noble-street, Falcon-square, City, wholesale milliner, Oct. 8 at 1, and Nov. 8 at 2, London: Off. Ass. Pennell; Sol. Buchanan, 13, Basinghall-street, London.—Pet. f. Sept. 22.

**EDWARD FRANKS**, Petty Cury, Cambridgeshire, butcher, Oct. 8 at 2, and Nov. 8 at half-past 2, London: Off. Ass. Pennell; Sols. Fetch, Cambridge; Doyle, 2, Verulam-buildings, Gray's-inn, London.—Pet. f. Sept. 14.

**THOMAS WHITEHEAD**, Duke-street, Smithfield, London, tailor, Oct. 8 at half-past 12, and Nov. 8 at 12, London: Off. Ass. Pennell; Sols. Terrell & Chamberlain, 30, Basinghall-street, London.—Pet. f. Sept. 15.

**GEORGE THOMAS MARNIS**, Arbour-place, Fairfields, Stepney, Middlesex, ropemaker, Oct. 8 and Nov. 17 at 11, London: Off. Ass. Pennell; Sol. Angell, 23, King-street, Cheapside, City.—Pet. f. Sept. 14.

**JOSEPH POVEY**, Warwick, innkeeper, Oct. 8 and 29 at 11, London: Off. Ass. Whitmore; Sols. Collis & Ure, Birmingham.—Pet. d. Sept. 22.

**GEORGE CARESWELL**, Shrewsbury, Shropshire, innkeeper, Oct. 5 and 26 at 11, Birmingham: Off. Ass. Kinneer; Sols. Kough & Son, Shrewsbury; Collis & Ure, Birmingham.—Pet. d. Sept. 19.

**PHILIP WALTERS**, Wolverhampton, Staffordshire, auctioneer, Oct. 5 and 26 at 11, Birmingham: Off. Ass. Kinneer; Sols. Thorne and Chambley, Wolverhampton; James & Knight, Birmingham.—Pet. d. Sept. 24.

**JOSEPH WITHERSPOON**, Cheltenham, Gloucestershire, draper, Oct. 8 and Nov. 6 at 11, Bristol: Off. Ass. Miller; Sols. Bevan & Co., Bristol; Ashurst & Co., London.—Pet. f. Sept. 14.

**DANIEL JONES**, Wrexham, Denbighshire, coach builder, Oct. 2 and 29 at 12, Liverpool: Off. Ass. Cazenove; Sols. Bucktin, Wrexham; Evans & Co., Liverpool.—Pet. f. Sept. 20.

**GEORGE CRAVEN**, Liverpool, merchant, Oct. 5 and 29 at 11, Liverpool: Off. Ass. Bird; Sol. Duke, Liverpool.—Pet. f. Sept. 24.

**WILLIAM WILSON**, Thirsk and Northallerton, Yorkshire, carrier, Oct. 5 and Nov. 2 at 11, Leeds: Off. Ass. Young; Sols. North & Son, Leeds.—Pet. d. Sept. 14; f. Sept. 16.

**SAMUEL BOBSON**, York, hotel keeper, Oct. 12 and Nov. 2 at 11, Leeds: Off. Ass. Young; Sols. Blackburn & Son, Leeds; Michael, 7, Old Jewry-chambers, London.—Pet. d. Sept. 18; f. Sept. 19.

**JOHN THORNHILL**, Sheffield, Yorkshire, awl-blade manufacturer, (trading under the firm of Thornhill, Brothers), Oct. 6 and Nov. 3 at 10, Sheffield: Off. Ass. Brewin; Sols. Southall & Nelson, Birmingham.—Pet. d. Sept. 13; f. Sept. 14.

**THOMAS RUE**, East Stonehouse, Devonshire, draper, Oct. 9 and Nov. 5 at half-past 12, Plymouth: Off. Ass. Hirtzel; Sols. Fowler, Plymouth; Fryer, Exeter.—Pet. f. Sept. 22.

#### MEETINGS.

*William Nathaniel Evans and Robert Buncombe Evans*, Colyton, Devonshire, tanners, Nov. 21 at 11, Exeter, last ex.—*George Reeves* the younger, Cheltenham, Gloucestershire, livery-stable keeper, Nov. 1 at 11, Bristol, and. ac.—*Robinson Cross*, Hagworthingham, Lincolnshire, grocer, Oct. 17 at 12, Kingston-upon-Hull, and. ac.—*G. Wigglesworth*, Richardson-st., Bermondsey, leather dresser, Oct. 16 at 11, London, div.—*Charles Ballard*, Brownlow-place, Queen's-road, Dalston, Middlesex, shoe manufacturer, Oct. 16 at half-past 11, London, div.—*Thomas Livingston*, Brookby-walk, Homerton, Hackney, Middlesex, licensed victualler, Oct. 17 at 12, London, div.—*Charles Millingen*, Fore-street, City, umbrella manufacturer, Oct. 17 at half-past 11, London, fin. div.—*Frederick Boshell*, High-street, Southwark, Surrey, seedsman, Oct. 17 at 1, London, fin. div.—*Joseph Bailes*, Newcastle-upon-Tyne, leather seller, Oct. 19 at half-past 12, Newcastle-upon-Tyne, div.—*James Steven*, Newcastle-upon-Tyne, hatter, Oct. 19 at 12, Newcastle-upon-Tyne, fin. div.

#### CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*James Alfred Axtell, William Rudd Knights, and Wm. Axtell*, White's-ground, Bermondsey, Surrey, and St. Neots, Huntingdonshire, tanners, Oct. 16 at 1, London.—*Robert Watling Sexton*, Norwich, builder, Oct. 18 at 11, London.—*Horace Watling Sexton*, Norwich, builder, Oct. 18 at 11, London.—*John Ward Jones and Sigismund Dirichsteht*, Great St. Thomas the Apostle, City, merchants, Oct. 17 at 12, London.—*Francis Augustus Pizzala and Matthew Charles Greene*, Hatton-garden, Middlesex, looking-glass manufacturers, Oct. 17 at half-past 12, London.—*Wm. Grinding Goodwin*, Upper Marylebone-street, Middlesex, draper, Oct. 18 at half-past 11, London.—*John Ashton*, St. Paul's-road, Highbury, builder, and Ring-cross, Holloway, Middlesex, coffee-house keeper, Oct. 18 at 11, London.—*James Palmer*, Gloucester, ironmonger, Oct. 16 at 11, Bristol.—*Geo. W. B. Kialmark*, Puriton, Somersetshire, cement manufacturer, Nov. 6 at 1, Exeter.—*John Ross*, Truro, Cornwall, draper, Nov. 2 at 1, Exeter.—*John Axford and Charles Greenslade*, Bridgwater, Somersetshire, timber merchants, Nov. 2 at 11, Exeter.—*Thomas Palmer and Samuel Palmer*, Plymouth, drapers, Oct. 20 at half-past 12, Plymouth.—*Samuel Peach*, Snelton, Nottinghamshire, draper, Nov. 6 at half-past 11, Nottingham.—*Richard Heafford*, Loughborough, Leicestershire, auctioneer, Nov. 6 at half-past 11, Nottingham.

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M M

## GAZETTES.—FRIDAY, Sept. 28.

## BANKRUPT.

**WILLIAM SMITH** and **ROBERT WELLS SINCCLAIR**, Pancras-lane, City, linen drapers, (trading under the style or firm of Smith, Sinclair, & Co.), Oct. 9 at 11, and Nov. 15 at 2, London: Off. Ass. Johnson; Sols. J. & J. H. Linklater & Co., 7, Wallbrook; Langford & Marsden, 59, Friday-st., Chapside.—Pet. f. Sept. 26.

**FREDERICK JOHNSTONE**, Eastbourne-terrace, Paddington, and Curzon-street, May-fair, Middlesex, lodging-house keeper, Oct. 11 and Nov. 16 at 11, London: Off. Ass. Johnson; Sol. Howard, 66, Paternoster-row.—Pet. f. Sept. 20.

**ISIDOR SELKE**, Postern-row, Tower-hill; Middlesex, provision merchant, (but now a prisoner for debt in the Debtors Prison for London and Middlesex), Oct. 9 at half-past 11, and Nov. 13 at 1, London: Off. Ass. Bell; Sol. Henderson, 22, Leadenhall-street.—Pet. f. Sept. 25.

**ROBERT FOLKARD ADAMS**, Stowmarket, Suffolk, pipe maker, Oct. 9 at half-past 12, and Nov. 15 at 1, London: Off. Ass. Bell; Sols. Chilton & Barton, 7, Chancery-lane.—Pet. f. Sept. 19.

**JOHN YAXLEY**, Providence-yard, Vauxhall-bridge-road, Westminster, Middlesex, farrier, Oct. 9 at half-past 1, and Nov. 15 at half-past 11, London: Off. Ass. Johnson; Sol. Murrough, 5, New-inn, Strand.—Pet. f. Sept. 27.

**CHARLES TUCK**, Ely, Cambridgeshire, butcher, Oct. 8 at half-past 1, and Nov. 15 at 12, London: Off. Ass. Bell; Sols. Gaches, Peterborough; Sole & Co., Aldermanbury.—Pet. f. Sept. 26.

**MARKS LEOPOLD MULLER**, Aldermanbury Postern, City, watch manufacturer, Oct. 6 and Nov. 13 at 12, London: Off. Ass. Johnson; Sol. Solomon, 22, Finsbury-place.—Pet. f. Sept. 24.

**JOHN ASHDOWN**, Porsford-terrace, Malden-road, Kentish-town, Middlesex, draper, Oct. 11 at half-past 11, and Nov. 16 at 12, London: Off. Ass. Johnson; Sol. Heather, Paternoster-row.—Pet. f. Sept. 25.

**WILLIAM ELLIOTT**, Church-street and Oxford-terrace, King's-road, Chelsea, Middlesex, builder, Oct. 11 at half-past 12, and Nov. 16 at 1, London: Off. Ass. Bell; Sols. Lawrence & Co., 14, Old Jewry-chambers, Old Jewry.—Pet. f. Sept. 28.

**JAMES WILLATTS**, Finsbury-pavement, City, upholsterer, Oct. 12 and Nov. 9 at 11, London: Off. Ass. Cannan; Sols. Lawrence & Co., 14, Old Jewry-chambers, Old Jewry.—Pet. f. Aug. 9.

**GEORGE TAYLOR**, West Bromwich, Staffordshire, timber merchant, Oct. 12 and Nov. 2 at 11, Birmingham: Off. Ass. Whitmore; Sols. Turner, Wolverhampton; Smith, Birmingham.—Pet. d. Sept. 25.

**EDWARD LINDOP**, Knighton, Muckleston, Staffordshire, farmer, Oct. 12 and Nov. 2 at 11, Birmingham: Off. Ass. Kinnear; Sols. Stevenson, Stoke-upon-Trent; E. & H. Wright, Birmingham.—Pet. d. Sept. 18.

**FRANCIS EDWARD SHIPLEY** the younger, Giltbrook, Nottinghamshire, brickmaker, Oct. 9 and Nov. 1 at 11, Nottingham: Off. Ass. Harris; Sol. Coope, Nottingham.—Pet. d. Sept. 27.

**FRANKCOM LEAR**, Fishponds, Gloucestershire, baker, Oct. 9 and Nov. 19 at 11, Bristol: Off. Ass. Acraman; Sol. Henderson, Bristol.—Pet. f. Sept. 21.

**WILLIAM FOXCROFT** and **GEORGE WELLOCK** the younger, Heckmondwike, Yorkshire, cotton spinners, Oct. 19 and Nov. 8 at 11, Leeds: Off. Ass. Young; Sols. Earle & Co., Manchester; Bond & Barwick, Leeds.—Pet. d. Sept. 15; f. Sept. 17.

**JOHN LENG**, Bridlington Quay, East Riding, Yorkshire, licensed victualler, Oct. 17 and Nov. 7 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sols. England & Co., Kingston-upon-Hull.—Pet. d. Sept. 26.

**JOSEPH PHILIPSON**, Newcastle-upon-Tyne, milliner, Oct. 9 and Nov. 7 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Joel, Newcastle-upon-Tyne; Hoyle, 102, Leadenhall-street, London.—Pet. d. Sept. 27.

## MEETINGS.

*Thomas Spicer*, Little Britain, City, oilman, Oct. 9 at 1, London, and. ac.—*Chas. Ballard*, Brownlow-place, Queen's-road, Dalston, Middlesex, shoe manufacturer, Oct. 9 at 12,

London, and. ac.—*David Taylor M'Pherson*, Noble-street, City, straw-hat dealer, Oct. 9 at half-past 12, London, and. ac.—*George Wigglesworth*, Richardson-street, Bermondsey, Surrey, leather dresser, Oct. 9 at 11, London, and. ac.—*Jas. Wm. Sumner*, Reigate, Surrey, builder, Oct. 9 at half-past 12, London, and. ac.—*Wm. Duncan* and *Thomas Hamper*, Tooley-street, Southwark, Surrey, hop merchants, Oct. 9 at 1, London, and. ac. sep. est. of *Wm. Duncan*—*John Cross*, Windsor, Berkshire, draper, Oct. 9 at 11, London, and. ac.—*Thomas Innocent*, Bedford-street, Covent-garden, Middlesex, grocer, Oct. 9 at 12, London, and. ac.—*Chas. Selson Davis*, Goswell-street, Middlesex, and Chatworth-cottages, Forest-lane, Stratford, Essex, stationer, Oct. 9 at half-past 11, London, and. ac.—*George Portugal* and *Chas. Brady*, Clement's-lane, Lombard-street, City, wine merchants, Oct. 11 at 11, London, and. ac.—*John Tombs*, Church-street, Westminster, Middlesex, builder, Oct. 12 at 1, London, and. ac.—*James John Stevenson Outtrim*, Oakley-terrace, Old Kent-road, Surrey, ladies' outfitter, Oct. 12 at 11, London, and. ac.; Oct. 19 at 11, div.—*Heerjeebhoy Rustumjee*, Bishopsgate-street Within, City, merchant, Oct. 11 at 11, London, and. ac.—*Wm. Watkin Davies*, Cardiff, Glamorganshire, draper, Oct. 18 at 11, Bristol, and. ac.—*James Young*, Highbridge, Somersetshire, draper, Oct. 25 at 11, Bristol, and. ac.—*Edward Jones*, Marlborough, Wiltshire, horse dealer, Oct. 25 at 11, Bristol, and. ac.—*John Williams*, Pontypool, Monmouthshire, surgeon, Oct. 18 at 11, Bristol, and. ac.—*George Haseluck*, Tetbury, Gloucestershire, ironmonger, Oct. 18 at 11, Bristol, and. ac.—*Jas. Palmer*, Gloucester, ironmonger, Oct. 18 at 11, Bristol, and. ac.—*William Henry Edmonds*, Wroughton, Wiltshire, horse-dealer, Oct. 18 at 11, Bristol, and. ac.—*Henry Zellner* and *J. Shiers*, Manchester, fancy trimming manufacturers, Oct. 10 at 12, Manchester, and. ac.—*John Geard Beddell*, Brewod, Staffordshire, chemist, Oct. 15 at 11, Birmingham, and. ac.—*Jacob Alexander Alexander*, Exeter, china dealer, Oct. 16 at 1, Exeter, and. ac.; Oct. 24 at 1, div.—*J. Axford* and *C. Greenlade*, Bridgwater, Somersetshire, timber merchants, Oct. 16 at 1, Exeter, and. ac.; Oct. 24 at 1, div.—*Wm. Hebdin* and *John Browns* the elder, Leeds, Yorkshire, and *Arthur Oates Hebdin*, Parliament-street, Westminster, Middlesex, merchants, Oct. 11 at 11, Leeds, and. ac. sep. est. of *Arthur Oates Hebdin*—*Edmund Jones*, Battersea, Surrey, hostler, Oct. 19 at 1, London, div.—*Joseph Bushell* and *Alfred Walker*, Wood-street, City, and Harpenden, Hertfordshire, straw-hat manufacturers, Oct. 20 at 11, London, div.—*Edmund Hayman*, South Molton-street, Grosvenor-square, Middlesex, fruiterer, Oct. 19 at half-past 1, London, div.—*James Vincent Hooves*, Chiswell-street, Middlesex, leather seller, Oct. 19 at 2, London, div.—*Richard Barnes*, Norwich, shoe manufacturer, Oct. 19 at 1, London, div.—*Samuel Oylar Beeman*, Lower Thames-street, City, wine merchant, Oct. 20 at 11, London, div.—*William Hasted*, Alresford, Hampshire, butcher, Oct. 22 at half-past 12, London, div.—*Brafield Cancell*, Northampton, boot manufacturer, Oct. 22 at 2, London, div.—*Wm. S. C. W. Bassett*, Sheerness, Kent, grocer, Oct. 22 at 1, London, div.—*John J. Tagg*, Reading, Berkshire, innkeeper, Oct. 23 at half-past 11, London, div.—*Griffith Edwards*, Gellyncha, Bridell, Pembrokeshire, carrier, Oct. 25 at 11, Bristol, first and fin. div.—*Henry J. Wilson*, Whitechurch, Shropshire, surgeon, Oct. 29 at 11, Birmingham, div.—*Wm. Boswell*, Birmingham, licensed victualler, Oct. 22 at 11, Birmingham, div.—*John Bennet*, Birmingham, corn dealer, Oct. 30 at 11, Birmingham, div.—*Joseph Thompson* the younger, Dudley, Worcestershire, plumber, Oct. 22 at 11, Birmingham, fin. div.

## CERTIFICATES.

*To be allowed, unless Cause be shown to the contrary on or before the Day of Meeting.*

*Edmund J. Burn* the younger, Brighton, Sussex, stationer, Oct. 20 at 12, London.—*Robert Watson* and *Charles Wm. Watson*, Kettering, Northamptonshire, curriers, Oct. 19 at half-past 12, London.—*James V. Hooves*, Chiswell-street, Middlesex, leather seller, Oct. 19 at 2, London.—*Jonah D. Wingrave* and *Thomas W. Wood*, St. Albans, Hertfordshire, and Luton, Bedfordshire, straw plate manufacturers, Oct. 19 at half-past 11, London.—*Saml. O. Beeman*, Lower Thames-street, City, wine merchant, Oct. 19 at half-past 11, London.—*William Knight*, Portobello-terrace, Kensington-park, and Prince's Dairy, Hereford-road, Bayswater, Middlesex, com-

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## THE JURIST.

LONDON, OCTOBER 6, 1860.

In our last number we referred to a bill introduced into the House of Lords by Lord Chelmsford in the session of Parliament which has recently expired, in name, "to make better provision concerning the procedure against persons charged with indictable offences within the metropolitan district," but in reality a step towards the abolition of grand juries in this country—a project which a certain school of law reformers among us have long had so much at heart. We also mentioned, that although the above bill passed the House of Lords, it was unsuccessful in the House of Commons; and took occasion to observe, that the attack on the grand jury system in our day is a signal example of a tendency in that school to eliminate as much as possible the popular element from our administrative system, and replace it by the introduction of a professional and official element—to have more *judges* and fewer *juries*. Since the publication of that number a fresh and striking illustration of this tendency has been supplied by the speech of the Lord Advocate of Scotland, at Glasgow, to a meeting of the "National Association for the Promotion of Social Science." Among the other subjects discussed by that body, "jurisprudence" holds a conspicuous place; and the learned Lord we have mentioned made a long address, in which he suggested large and numerous alterations in the law, to one of which we now wish to direct attention. Speaking of the system of coroners' inquests, he said\*, "If a coroner's inquest is intended for the protection of the subject—if it is intended for the purpose of taking care that the cases shall be investigated and examined—I think that object may be attained without

the necessity of importing so large and wide a system from England. For my own part, I believe that in nowhere in Europe is crime more uniformly investigated or more efficiently detected than it is with us. But if a coroner's inquest is wished in order to detect crime—if the object is to ascertain and detect occult and latent crimes—I then say I would object to exchange a most efficient and philosophical machine for a very rough and doubtful one; because if you are only dealing with the detection of the crime, can any man doubt that inquiry which is not public is the best and most efficient mode of detecting it? If you are to send a detective down to a remote county to ascertain the truth as to some act that had been committed in private, you would hardly put an advertisement in the newspaper that you had done so, and you would scarcely tell him, on his arrival, to proclaim at the market cross what he wanted. Quite the contrary, and there can be no doubt that the quiet investigation which goes on in the Crown Office in Scotland is infinitely better adapted to detect facts than the investigation which takes place before a coroner's inquest, which gives warning to the guilty, which throws suspicion upon the innocent, and which for the most part, though it has served its turn nobly as the protection of England against arbitrary power—for the most part I believe not really to be conducive to the detection of the more secret and difficult crimes. But there is another object—another result which our system accomplishes, which the coroner's inquest is greatly against—I mean the protection of the innocent. I am not at this moment saying that the coroner's inquest should be abandoned in England. It is consonant to the feelings of the English people, and has been productive of good in England. I am only comparing it with our own system, and I say that any man who has experience of the Crown Office work in Scotland will admit that it is good for the detection of crime; it is very potent in the protection of the innocent—in preventing false rumours from getting afloat—in

\* We quote from the report of that speech as given in *The Daily News* and *The Standard* of the 27th September.

discouraging false accusation—in preventing colourable appearances from being tortured by the public gossip into accusations of crime. For all these things I would deprecate the introduction into Scotland of the system of coroners' inquests as it exists in England, leading sometimes as it may to the unhappy man, who is thrown into circumstances of suspicion, having the finger of scorn pointed at him during all his days, and those who hear the accusation may never hear the refutation."

The first observation that suggests itself on the perusal of this is, why is it that the Lord Advocate does not propose the abolition of the coroner's jury? Surely, if the effect of it be what he describes—to facilitate the escape of criminals from justice, and to expose innocent persons to imputations of guilt which may cling to them for life, and that these consequences necessarily flow from the *publicity* of its proceedings—the sooner it is abolished the better. In the second place, it is remarkable, that while for several years past continual and furious attacks have been made in England on the *grand jury* because it is a *secret* tribunal, and that it is iniquitous to proceed against a man behind his back, the *coroner's jury* is attacked by the Lord Advocate of Scotland because it is a *public* one. But, in truth, there is no analogy between them in this respect, and our law does perfectly right in constituting the former a secret and the latter a public tribunal. When the grand jury is called on to act, there is a person suspected of crime, and the giving him notice that a tribunal is sitting, to determine whether he shall be put on his trial for it, would in many instances be a mere notice to him to disappear with all possible expedition. In the coroner's court, on the other hand, no person is accused of crime—in reality, none may have been committed; it is an inquiry which the law directs to be held when any citizen has come to a violent or sudden end, in order to ascertain whether that phenomenon arose in the ordinary course of nature, or was the result of inevitable accident, or the offspring of suicide or homicide. The importance of such a tribunal as a protection to human life has in general been obvious enough to Englishmen; and we have now the testimony of the Lord Advocate of Scotland, the general character of whose speech shews him a most unfriendly witness in the matter, that the coroner's inquest has been "productive of good in England," where "it has served its turn nobly as the protection of England against arbitrary power." He deprecated, however, its introduction into Scotland—a matter on which we shall not presume to contradict him, as the learned Lord doubtless understands the institutions of Scotland and his own countrymen far better than we can pretend to do.

We do not propose at present to shew in detail the important services rendered to society by the institution of the coroner's inquisition, and will merely advert to one or two of them. First, the obvious difficulty which its existence throws in the way of murderers. If the detection of such were delegated to mere official inquiry, the murderer, to escape with impunity, would only have to deceive, influence, or corrupt one or two individuals. Secondly, a very important subject for inquiry before coroners' tribunals is, whether persons who are proved to have destroyed themselves were *compotes mentis* at the time; and a considerable check on suicide is necessarily created by the circumstance that that often most delicate question must be publicly investigated. How easily unpleasant revelations on the subject could be cushioned by the ignorance of officials, or by influence or money working on their minds, is obvious enough. Besides, it should be remarked, that the inquisition conducted by the coroner does not preclude the Executive, or others in authority, from carrying on any other inquiry, with respect to a supposed crime, which they may deem advisable, and which,

indeed, in many instances, would be their bounden duty.

It is but justice to the Lord Advocate to add, that he does not stand alone in his views. We have observed with regret for some time past an inclination in the magistrates of a few counties in England to place impediments in the way of coroners' inquisitions, and as far as possible to delegate their functions to the police. This is a tendency which should be carefully watched; and if any deliberate proposal is ever made in this country to abolish the coroner's inquisition, we hope that the two following questions will be pressed on the notice of the Legislature. First, whether there is a greater or less amount of suicide, murder, and manslaughter in England than in those favoured lands where inquiries into the cause of sudden deaths are conducted in secret by official personages? Secondly, and if greater, whether the institution of the coroner's court, defective and susceptible of reform as it undoubtedly is, is not, in some degree at least, the cause of this great blessing to society?

## REPORT OF THE SELECT COMMITTEE OF THE HOUSE OF COMMONS ON MERCHANT SHIPPING.

(Continued from p. 363).

### 3. Liability of Shipowners.

After referring to the common law on the liability of a shipowner as a carrier by sea, for the conduct of the persons whom he employed, and to the modification introduced by the 9 & 10 Vict. c. 93, the Report proceeds—

"Your committee feel bound to direct attention to the difference between accidents on land and the casualties to which ships traversing the seas, and encountering all the violence of the elements, are exposed. Your committee must also remind your Honourable House, that by recent enactments the shipowner, in order to insure greater safety to persons and property, is now, to a very considerable extent, compelled to construct, equip, and navigate his ship in the manner directed by the Legislature, and that the Merchant Shipping Act contains 'no less than seventy-eight clauses inflicting penalties for omissions or commissions of acts affecting, or supposed to affect, the public interest.'

"The earnest representations made by shipowners, in the interval between 1846 and 1854, to the Board of Trade, of the unlimited liability to which they were exposed under Lord Campbell's Act, induced the Government to propose to Parliament the clauses of the Merchant Shipping Act of that year, which now form the statutory law upon that branch of the subject.

"By the 504th section of that act, the shipowner, in all cases where any loss of life or personal injury occurs without his actual fault or privity, is not answerable in damages to an extent beyond the value of the ship and freight, taking the value of the ship at not less than 15*l.* per ton.

"The procedure prescribed by the act to recover such damages is simple and summary; and by the 511th section, any person, who is dissatisfied with the amount of statutory damage, may bring an action on his own account, the amount of damages recoverable by him being, however, still limited to the value of the ship and freight.

"Your committee fully admit that this limitation of a previously unlimited liability was a great concession to the shipowner, and relieved him from a ruinous responsibility. Your committee recognise the wisdom of the principle which was sought to be enforced with so much care and consideration, viz. that to exempt shipowners from liability beyond the value of an inferior



ship and freight would be an encouragement to unprincipled persons to employ worn-out and inadequately-manned vessels in the conveyance of passengers; and that, on the other hand, to subject shipowners to unlimited liability for such calamities might induce avarice of property and character to withdraw their fortunes from so great a hazard.

"Your committee, however, must treat the subject as it practically works, keeping in view the desirability of maintaining the law, so as to guard against the wilful negligence of the captain and crew of a ship, and to give the families of persons killed a legal remedy, but at the same time to shield the shipowner, if possible, from these ruinous consequences which no precaution or foresight on his part can at present avert.

"Much conflicting evidence has been given by various witnesses respecting the legality of insurances effected to cover the risks contemplated by the statute of 1854. It appears that at Hull, and at various other ports, 'protecting societies' are formed upon a principle of mutual insurance, in which vessels estimated of the real value of 2810*l.* are valued at 10,000*l.*, with a view to cover the risks in question. These contracts of insurance are, it is stated, of questionable legality, and the 'protecting societies' seem to be called into existence to guard, in an indirect manner, against any casualty involving loss of life, which, under the prevailing impression amongst shipowners concerning the law of insurance, is not a legally insurable risk.

"Your committee have not been furnished with any specific proofs that any claims for losses have been preferred against or made good by any of these societies.

"But whatever usage may prevail in any part of the United Kingdom in regard to the practice or legality of covering by insurance that particular risk incurred by loss of life in ships, through the neglect of the captain or crew, for which the owner is made liable to a limited extent by the Merchant Shipping Act of 1854, your committee consider the subject to be involved in so much doubt that it ought to be settled by statutory enactment. Your committee therefore recommend that a clause be prepared by the Board of Trade, similar in principle to the 55th section of the Passenger Act of 1835, declaring, with reference to the liabilities recited in the 503rd and 504th sections of the Merchant Shipping Act, that no policy of insurance shall be deemed to be invalid by reason of the nature of this risk.

"Under the clear and unambiguous state of the law since 1854, now controlled by statutory authority, no personal liability accrues to a shipowner for loss of life or personal injury, beyond the value of the ship and freight, taken at a minimum of 15*l.* per registered ton; but a further provision was added, enabling the Board of Trade, where many lives were lost, to consolidate the actions, and recover for each life a sum not exceeding 30*l.* Any relative not content with this sum was enabled to bring his own action, subject to the prior claims of the Board of Trade, and to the limitation of the whole liability above mentioned. A further provision was inserted, enabling the Courts of Chancery, or other Courts exercising similar jurisdiction, to prevent multiplicity of proceeding, whether in respect of life or property, and to administer, in due course, the whole limited amount for which the shipowner might be liable.

"Your committee must point out, that as the 511th section, already referred to, leaves it open to any person dissatisfied with the amount of statutory damages to bring his action against the shipowner on his own account, the practical effect is, that when an accident occurs, innumerable actions at law are instituted against opulent companies or wealthy shipowners; and, under the threats and pressure of legal proceedings, the owners of the incriminated ship are, unless in cases where all the claims arise within one jurisdiction, glad to pay

almost any amount of compensation money rather than bring the cause before the courts of law. Your committee readily admit that, in some cases mentioned, the preliminary decisions of the Board of Trade, as prescribed in the act, have been fully warranted by the circumstances; and that, in a public point of view, as regards the protection of life and property, the intervention of the Board has had a salutary effect, and has been sanctioned by public opinion. But, on the other hand, your committee cannot but express their opinion; that as the law has, by very exceptional legislation, armed the Board of Trade with power to institute inquiries into wrecks and casualties, upon the decision of which not only depends the question of culpability of the parties implicated, but practically also the liability of the shipowner, it becomes of the highest importance, for the due administration of justice to all parties, that these inquiries should be conducted with the strictest impartiality, and that the official weight and influence of a powerful public board should not be brought to bear unduly against any person implicated, and this especially should be avoided in cases where claimants have a deep interest in fixing criminality upon the commander of the vessel.

"Your committee having expressed an opinion that the insurance of life, as well by the shipowner as by any person having an insurable interest by law, should be declared legal by statute, it becomes necessary to consider whether the valuation of damages in the event of death, fixed by the statute at 30*l.*, and the vessel and freight at a minimum of 15*l.* per registered ton, limited only by the value of ship and freight, however great, cannot be modified so as to protect passengers, rich and poor, against the contingency of casualty whilst exposed to the perils of the sea and of navigation, and at the same time not discourage the reputable shipowners of the United Kingdom from pursuing the passenger trade. Capitalists connected with shipping are ready to incur such liabilities as prudence and foresight can guard against; but it is stated in evidence that many wealthy British shipowners refuse to take passengers on board their vessels mainly on account of the great, uncertain, if not practically unlimited, liability to which they would be exposed in the event of loss of life. But, on the other hand, there are certain facts proved to your committee which appear to be scarcely consistent with these assertions.

"In considering the question of the liability of shipowners in all its bearings, the additional liability to which the British shipowner is exposed by the operation of the municipal laws of foreign States, and of our own possessions abroad, cannot be shut out of consideration.

"It appears that the Peninsular and Oriental Steam Navigation Company, under processes of law in different places, were compelled to pay damages very far in excess of the value of the ship; and it is admitted, that in the present state of the law both in America and in England, though the liability of the shipowner is limited, he may be sued in both countries, and have to pay the whole claim twice over.

"This raises the question of the practicability and desirability of an international arrangement with maritime countries, so as to arrive at some uniform reciprocal principle.

"Some such agreement seems the more desirable, for, as the law stands at present, the liability of the foreign shipowner is not limited in our courts; and the liability of the English shipowner, by the same rule, if it were applied in the United States, would not be limited in their courts. Therefore, though the English law may have contemplated the limitation of the British shipowner's liability, any damage sustained by a collision on the high seas between a British ship and a foreign vessel would not fall within the statutory limit, and



practically the liability of the British shipowner, in the event of loss of life, would be unlimited, or at least co-extensive with the loss, which a jury might assess according to the rank of life and injury sustained by the relatives or family of the deceased.

"This subject becomes further embarrassed in cases of collision, in which the guilty ship, or both ships, may perish, and be no longer in existence. A valuable cargo on board a worthless ship, or a worthless ship running down and destroying a valuable vessel, causes, in every variety of case, infinite uncertainty, where redress is sought under the act of Parliament. In cases in which the incriminated party has, in fact, lost his ship, he is still liable by the English law for its value, together with the freight, which aggravates the hardship to the shipowners.

"It is generally agreed that the valuation for loss of life, in the Merchant Shipping Act, at the minimum of 15*l.* per ton, was fixed with a view of preventing the employment of inferior ships, and it was considered that vessels of the value of 15*l.* per ton were sufficient to provide for the comfort and safety of passengers.

"Your committee agree in the opinion suggested, that instead of taking the actual value of the ship in every case as the limit, a certain sum per registered ton might be fixed, with a view to arrive at greater fairness between shipowner and shipowner.

"At present the law inflicts a heavier punishment upon the owner of the vessel best adapted to provide (from her superior construction) for the safety of passengers; and the responsibility of the owner actually increases with the increased means he employs to provide for the health, safety, and comfort of those who embark in his vessel. Your committee are, therefore, of opinion that an absolute sum of 15*l.* per ton gross register, whatever may be the actual value, should be established as the definite valuation of the ship, and that all consideration of freight should be excluded. If your Honourable House should adopt this recommendation, which, in the opinion of your committee, is based upon more intelligible principles than the existing law, and is necessary on the grounds of justice and policy, then the owner of the inferior ship, and the owner of the well-appointed ship, would be placed upon the same level of responsibility, and owners of valuable ships would not be at a disadvantage, as they now are, when a collision occurs with a badly-found vessel, belonging, perhaps, to an opulent owner."

The remaining four heads of the Report we give in extenso:—

#### 8. Recent Legislation.

"Your committee will now proceed to advert to various points of more or less importance connected with recent legislative enactments. In doing so, your committee readily bear testimony to the efforts made of recent years by Parliament to simplify, improve, and consolidate the laws affecting merchant shipping. The legislation since 1835 has, in many respects, been judicious and beneficial, though in others it has been carried to excess.

"When so much has been achieved, errors and omissions have been, perhaps, unavoidable. It has been urged by various witnesses, that in some instances a zealous wish to accomplish very desirable improvements, and to protect the interests of the public, has led to the adoption of legislative regulations possibly of a too minute and restrictive character. Objections have also been made to some provisions of the Merchant Shipping Act of 1854, and of the Passenger Act of 1855, as tending to hamper the energies of the shipowner and the genius of the shipbuilder, and that the law, by insisting upon certain express requirements and provisions, frequently dictates with unnecessary interference how a ship should be built, fitted, manned, and navi-

gated. Your committee are of opinion that the scope of legislation, unless in exceptional cases, ought to extend no further than to secure solidity in the construction, and sufficiency in the equipments, of the ship, and that various minute regulations, now specially enforced by act of Parliament, should be watched by the Board of Trade, with a view to remove every reasonable objection of undue official interference with the liberty of action of the owners, and to make these regulations conform to the rapidly improving spirit which pervades every branch of scientific and maritime enterprise."

#### 9. Merchant Shipping Act and Shipping Offices.

"The Merchant Shipping Act conferred a great boon on the shipping interest by collecting into one intelligible statute the obscure and scattered provisions of more than 1000 sections, beginning with the reign of Queen Elizabeth. The arrangement of this act in different parts according to different subject-matters, and the concise use of ordinary language in place of the usual phraseology adopted in acts of Parliament, were new features in parliamentary drawing, and of especial value in an act containing regulations for the guidance of seamen and others. In regard to this act there have been numerous alterations suggested by various witnesses. It is, however, impossible for your committee to enter upon these in detail without far exceeding the usual limits of a report. On the other hand, there are some suggestions which require a special though brief notice. For instance, the statements made by the chairman of the Mercantile Marine Association of Liverpool, and by the secretary to a similar association in London, with the remarks of the secretary to the Marine Department of the Board of Trade upon the former, embodied in the evidence, will no doubt receive from your Honourable House all the attention their importance deserves; and in any measure relating to the revision of this act which may be submitted to Parliament, your committee are of opinion that many of the suggestions may be advantageously adopted. These, however, would better be left with the officers of the Board of Trade, by whom any such measure will, as heretofore, be prepared.

"Respecting the admeasurement of ships, and the allowance to steam-vessels, your committee feel, that as the new law is based, as a whole, upon the most equitable principles, and that as it has answered exceedingly well in practice, they are of opinion that any alterations in detail which experience may have shown to be necessary cannot be dealt with by your committee, and should be left to the Executive.

"The system of registration was also remodelled by the Merchant Shipping Act, and your committee understand that it has worked with perfect success. The leading feature is, that it enables an owner to give an absolute title to an innocent purchaser, and at the same time, in case of fraud or breach of trust, it gives a remedy against the fraudulent person. That it has been successful in this—which, as was stated on the introduction of the act, is the desideratum of every system of registration, whether of ships, of land, or of other property—is shown by the fact, that Sir H. Cairns, in introducing his bill for the transfer of real estate, quoted it as the model. Your committee desire further to observe, that, under this system of registration, shipping property can be transferred and mortgaged with a facility and security of which no other species of property has the advantage. This transfer is effected by the Customs Establishment absolutely without expense of any kind to the shipowner; and further, not only is his conveyancing thus done for him, but transfers and mortgages of ships are entirely free from the stamp duties which attach to every other species of property."

(To be continued).

keeper, Oct. 23 at half-past 11, London.—*James Hall*, Monmouth, innkeeper, Oct. 23 at 11, Bristol.—*George Reeves* the younger, Cheltenham, Gloucestershire, riding master, Nov. 6 at 11, Bristol.—*John Price*, Abertillery, Aberystwith, Monmouthshire, draper, Oct. 23 at 11, Bristol.—*Thomas Richardson*, West Auckland, Durham, druggist, Oct. 24 at 12, Newcastle-upon-Tyne.—*Charles T. Collins*, Worcester, and Fenchurch-street, London, wine merchant, Nov. 2 at 11, Birmingham.—*Johns Pags*, Tong Norton, Shropshire, licensed victualler, Nov. 2 at 11, Birmingham.—*Richard Horrocks*, Liverpool, baker, Oct. 19 at 12, Liverpool.—*Arthur Jackson* and *Richard Michell Eastman*, Liverpool, brokers, Oct. 19 at 11, Liverpool.

*To be granted, unless an Appeal be duly entered.*

*Thos. Harrison*, Henley-upon-Thames, Oxfordshire, tailor.—*Samsel Baxter*, Minories, London, and Glasshouse-street, Upper East Smithfield, Middlesex, ships' smith.—*Thomas Boyden*, Cullum-street, City, merchant.—*George Joseph Sandford*, High-street, Marylebone, and Clerkenwell-green, Middlesex, linendraper.

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*John Ward*, Port-Glasgow, grecer.—*David Moodie*, Glasgow, joiner.—*Alex. Cooper*, Drumfolds, Old Rait, farmer.—*Archibald Low*, Glasgow, plumber.—*Thomas Sommerville*, Glasgow, salesman.

TUESDAY, Oct. 2.

#### BANKRUPTS.

**JAMES KNIGHT** the younger, Barge-yard-chambers, Bucklersbury, City, scrivener, Oct. 11 at 2, and Nov. 15 at half-past 1, London: Off. Ass. Bell; Sols. Harrison & Lewis, Old Jewry.—Pet. f. Sept. 29.

**GEORGE DRAKE**, Stoke Newington, Middlesex, licensed brewer, Oct. 11 at 12, and Nov. 13 at half-past 12, London: Off. Ass. Johnson; Sol. Wells, Moorgate-street.—Pet. f. Sept. 29.

**JOSEPH RUSSELL**, Larkhall-lane, Clapham, Surrey, job master, Oct. 15 at 1, and Nov. 20 at 12, London: Off. Ass. Johnson; Sol. Apps, Gray's Inn.—Pet. f. Sept. 25.

**LABAN ANDREWS**, Wells, Norfolk, grocer, Oct. 11 at 1, and Nov. 13 at half-past 11, London: Off. Ass. Bell; Sols. Dimmock & Busby, Suffolk-lane, Cannon-street.—Pet. f. Sept. 19.

**AUGUSTUS PICKETT**, Brighton, Sussex, coal merchant, Oct. 11 at half-past 1, and Nov. 8 at half-past 11, London: Off. Ass. Johnson; Sols. Chaik, Brighton; Bothamley & Freeman, Coleman-street, London.—Pet. f. Sept. 29.

**RICHARD MAYLIN**, Blackfriars-road, Southwark, Surrey, tea dealer, Oct. 12 at half-past 12, and Nov. 16 at 12, London: Off. Ass. Whitmore; Sol. Crafter, 168, Blackfriars-road.—Pet. f. Oct. 1.

**GEORGE EKINS ARNSBY**, Earl's Barton, Northamptonshire, shoe manufacturer, Oct. 16 and Nov. 19 at 1, London: Off. Ass. Pennell; Sols. J. & J. H. Linklater & Co., 7, Walbrook, London.—Pet. f. Oct. 1.

**JOHN CARTWRIGHT**, Frankton, Whittington, Shropshire, builder, Oct. 15 and Nov. 5 at 11, Birmingham: Off. Ass. Kinnear; Sols. Edwards, Shrewsbury; James & Knight, Birmingham.—Pet. d. Sept. 27.

**BENJAMIN JONES**, West Bromwich, Staffordshire, corn-factor, Oct. 18 and Nov. 1 at 11, Birmingham: Off. Ass. Whitmore; Sols. James & Knight, Birmingham; Plunkett, West Bromwich.—Pet. d. Sept. 28.

**WILLIAM WOOLLEY**, Tipton, Staffordshire, boiler maker, Oct. 15 and Nov. 5 at 11, Birmingham: Off. Ass. Kinnear; Sol. Smith, Birmingham.—Pet. d. Sept. 29.

**THOMAS PRICE**, Evesham, Worcestershire, market gardener, Oct. 18 and Nov. 1 at 11, Birmingham: Off. Ass. Kinnear; Sols. Hodgson & Allen, Birmingham.—Pet. d. Sept. 29.

**CHARLES JONES THOMAS**, Newport, Monmouthshire, bonded store merchant, Oct. 16 and Nov. 13 at 11, Bristol: Off. Ass. Miller; Sols. Blakey, Newport; Bevan & Co., Bristol.—Pet. f. Sept. 28.

**THOMAS TOLSON**, Dewsbury and Ossett, Yorkshire, carpet-manufacturer, Oct. 18 and Nov. 16 at 11, Leeds: Off. Ass. Young; Sols. Terwy & Watson, Bradford; Bond & Barwick, Leeds.—Pet. d. Sept. 25.

**JOHN JAMES ROLLS**, Cerne Abbas, Dorsetshire, grocer, Oct. 12 and Nov. 2 at 1, Exeter: Off. Ass. Hirtzel; Sols. Andrews, Dorchester; Clarke, Exeter.—Pet. f. Sept. 28.

**GEORGE NOBLE**, Middlesex, Yorkshire, innkeeper, Oct. 18 and Nov. 16 at 11, Leeds: Off. Ass. Young; Sols. Cariss & Cudworth, Leeds.—Pet. d. and f. Oct. 1.

**SAMUEL EASON**, Liverpool, coal merchant, Oct. 11 at 12, and Nov. 5 at 11, Liverpool: Off. Ass. Morgan; Sol. Radcliffe, Liverpool.—Pet. f. July 19.

**PAUL WHITWORTH**, Stalybridge, Cheshire, grocer, Oct. 17 and Nov. 7 at 12, Manchester: Off. Ass. Herniman; Sol. Sutton, Manchester.—Pet. f. Sept. 22.

#### MEETINGS.

*John Carmichael*, Liverpool, merchant, Oct. 16 at 11, Liverpool, pr. d.—*Chas. Ballard*, Brownlow-place, Queen's-road, Dalston, Middlesex, shoe manufacturer, Oct. 16 at 12, London, last ex.—*George Wigglesworth*, Richardson-street, Bermondsey, Surrey, leather dresser, Oct. 16 at half-past 11, London, last ex.—*Robert Dawson Clegg* and *Frederick Angerstein*, Friday-street, Cheapside, and Fleet-street, City, dealers in atmospheric clocks, Oct. 16 at 12, London, last ex.—*William Osborne*, Birkenhead, Cheshire, printer, Oct. 11 at 11, Liverpool, aud. ac.; Oct. 22 at 11, div.—*John Wood*, Ashton-under-Lyne, Lancashire, corn dealer, Oct. 17 at 12, Manchester, aud. ac.; Oct. 24 at 12, div.—*William Revitt*, Sheffield, Yorkshire, razor manufacturer, Oct. 13 at 10, Sheffield, aud. ac.—*William Harrison* and *George Taylor*, Hadlow, Kent, maltsters, Oct. 23 at 2, London, div.—*John Field*, Hackney-road, Middlesex, boot manufacturer, Oct. 23 at half-past 11, London, div.—*John Wilson*, Sunderland, Durham, shipowner, Oct. 23 at half-past 2, London, div.—*William Albert Stapley*, Old Compton-street, Soho, Middlesex, shoe mercer, Oct. 23 at 12, London, div.—*Thomas Lee Story*, Thrapston, Northamptonshire, tailor, Oct. 23 at 1, London, div.—*Samuel Turner Jay*, Hadleigh, Suffolk, miller, Oct. 23 at half-past 1, London, div.—*Timothy Spencer*, Artillery-place, Woolwich, Kent, tailor, Oct. 23 at half-past 12, London, div.—*John Lamb*, Pendleton, Lancashire, grocer, Oct. 25 at 12, Manchester, div.—*James Scott*, Tweedmouth, Berwick-upon-Tweed, millwright, Oct. 26 at half-past 11, Newcastle-upon-Tyne, fin. div.—*Edward Hall Hogg*, North Shields, Northumberland, shipowner, Oct. 26 at 12, Newcastle-upon-Tyne, fin. div.—*Henry Dawson*, Newcastle-upon-Tyne, draper, Oct. 26 at half-past 12, Newcastle-upon-Tyne, div.

#### CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*Edwin Henry Spark*, Heathcote-street, Gray's Inn-road, Middlesex, jeweller, Oct. 25 at 12, London.—*John Hart*, Crown-street, Finsbury, Middlesex, boot manufacturer, Oct. 25 at half-past 1, London.—*Gustave Winter*, Milk-street, City, warehouseman, Oct. 25 at half-past 1, London.—*George Stone Hubbard*, Aldermanbury, City, warehouseman, Oct. 23 at 12, London.—*James Richard William John Pollard Woodward*, Oundle, Northamptonshire, innkeeper, Oct. 23 at 1, London.—*Henry Cropley Haylock*, Linton, Cambridgeshire, apothecary, Oct. 24 at 1, London.—*Thomas Thorp*, Surrey-house, Clapham-road, Surrey, linendraper, Oct. 24 at 1, London.—*Thomas Fenn* and *William Thomas Fenn*, Norwich, Norfolk, and Fore-street, Cripplegate, London, and Tullerle-street, Hackney-road, Middlesex, wholesale shoe manufacturers, Oct. 24 at 11, London.—*William Henry Edmonds*, Wroughton, Wiltshire, horse dealer, Oct. 29 at 11, Bristol.—*George Rawle*, Porlock, Somersetshire, tanner, Oct. 26 at 1, Exeter.—*Charles Le Batt*, Exeter Barracks, Exeter, mesaman, Oct. 26 at 1, Exeter.—*Jacob Alexander Alexander*, Exeter, china dealer, Oct. 26 at 1, Exeter.

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## GAZETTES.—FRIDAY, Oct. 5.

## BANKRUPTS.

**FREDERICK JOHNSONE**, Eastbourne-terrace, Raddington, and Curzon-street, May-fair, Middlesex, lodging-house keeper, Oct. 11 and Nov. 16 at 11, London: Off. Ass. Graham, (and not Johnson, as previously advertised); Sol. Howari, 68, Paternoster-row.—Pet. f. Sept. 20.

**GEORGE WRIGHT**, Northampton, coach manufacturer, Oct. 17 at 2, and Nov. 16 at 12, London: Off. Ass. Graham; Sols. Becke, Northampton; Metcalfs, 4, Furnival's-inn, Holborn, London.—Pet. f. Oct. 5.

**JAMES WATT**, Mark-lane, City, and King-street, Hackney-road, Middlesex, canvas merchant, (trading under the firm of James Watt & Co.), Oct. 17 at half-past 1, and Nov. 14 at 12, London: Off. Ass. Stansfeld; Sols. J. & J. H. Linklater & Co., 7, Walbrook; Langford & Marsden, 59, Friday-street, London.—Pet. f. Oct. 2.

**JOHN RICE**, Lupus-street, Belgrave-road, Pimlico, Middlesex, butcher, Oct. 16 at half-past 12, and Nov. 22 at 1, London: Off. Ass. Bell; Sol. Young, Warwick-square.—Pet. f. Sept. 20.

**JAMES ARTHUR MONTEPELLIER**, Marylebone-road and Euston-road, Middlesex, boarding-house keeper, and St. Benet's-place, Gracechurch-street, City, general merchant, Oct. 16 and Nov. 20 at 11, London: Off. Ass. Johnson; Sol. Ablett, 6, Newcastle-street, Strand.—Pet. f. Sept. 28.

**LOUIS GUIRAUD**, Leicester-square, Middlesex, coffee-house keeper, Oct. 15 at 2, and Nov. 16 at half-past 11, London: Off. Ass. Bell; Sol. Ablett, 6, Newcastle-street, Strand.—Pet. f. Sept. 24.

**THOMAS SHORT**, Park-street, Camden-town, Middlesex, tailor, Oct. 16 and Nov. 20 at 11, London: Off. Ass. Bell; Sol. Stubbs, 46, Moorgate-street.—Pet. f. Oct. 3.

**CHARLES BARROW** the younger, Coleman-street, City, wine merchant, Oct. 18 and Nov. 16 at half-past 11, London: Off. Ass. Whitmore; Sol. Tayloe, 4, Scott's-yard, Bush-lane, Cannon-street.—Pet. f. Oct. 2.

**THOMAS WILKINS and JOSEPH WILKINS**, Coventry, Warwickshire, builders, Oct. 19 and Nov. 16 at 11, Birmingham: Off. Ass. Whitmore; Sols. Collis & Ure, Birmingham.—Pet. d. Oct. 3.

**MICHAEL HEWISON**, Nottingham, hosier, Oct. 16 and Nov. 13 at half-past 11, Nottingham: Off. Ass. Harris; Sols. Campbell & Co., Nottingham.—Pet. d. Oct. 1.

**JOHN HAWLEY SHARPE**, Denby, Derbyshire, boarding-house keeper, Oct. 23 and Nov. 22 at 11, Nottingham: Off. Ass. Harris; Sol. Maples, Nottingham.—Pet. d. Oct. 4.

**THOMAS JARVIS HARRIS**, Plymouth, Devonshire, mercer, Oct. 20 and Nov. 19 at half-past 12, Plymouth: Off. Ass. Hirtzel; Sols. Beer & Rundle, Devonport; Hartnoll, Exeter.—Pet. f. Oct. 1.

**GEORGE SWALES**, Doncaster, Yorkshire, hotel keeper, Oct. 20 and Nov. 17 at 10, Sheffield: Off. Ass. Brewin; Sols. Blackburn & Son, Leeds; Michael, 7, Old Jewry, London.—Pet. d. Sept. 28.

**HENRY BROADBENT GASKELL**, Liverpool, broker, Oct. 15 and Nov. 12 at 11, Liverpool: Off. Ass. Morgan; Sols. Thornely & Jevons, Liverpool.—Pet. f. Sept. 22.

## MEETINGS.

*Jos. Fairbank*, Manningham, Bradford, Yorkshire, worsted spinner, Oct. 18 at 11, Leeds, ch. ass.—*T. Holland*, Godalming, Surrey, manufacturer of hosiery, Oct. 15 at 11, London, aud. ac.; Oct. 27 at 11, div.—*Charles Dawson*, Wisbeach St. Peter, Cambridgeshire, dealer in china, Oct. 15 at 11, London, aud. ac.—*Thomas Lee*, George-yard, Lombard-street, City, and Birmingham, merchant, Oct. 16 at 11, London, aud. ac.—*Edmund Jones*, Woodbine-villas, Bridge-road, West Battersea, Surrey, hosier, Oct. 18 at half-past 11, London, aud. ac.—*John England*, Upper Charlotte-street, Fitzroy-sq., Middlesex, photographic apparatus manufacturer, Oct. 18 at half-past 11, London, aud. ac.—*Richard Barnes*, Norwich, shoe manufacturer, Oct. 18 at 12, London, aud. ac.—*James V. Howes*, Chiswell-street, Middlesex, leather seller, Oct. 18 at half-past 12, London, aud. ac.—*Wm. Porteous*, Brighton, Sussex, linen-draper, Oct. 18 at half-past 11, London, aud. ac.—*Edmund Hayman*, South Molton-st., Grosvenor-square, Middlesex, fruiterer, Oct. 18 at 11, London, aud. ac.—*John M'Evilly*, Great Portland-street, Middlesex,

saddler and harness-maker, Oct. 18 at 12, London, aud. ac.; Oct. 21 at 11, div.—*William Haated*, Alresford, Hampshire, butcher, Oct. 17 at 11, London, aud. ac.—*James Steven*, Newcastle-upon-Tyne, baker, Oct. 17 at 12, Newcastle-upon-Tyne, aud. ac.—*Joseph Bailes*, Newcastle-upon-Tyne, leather seller, Oct. 17 at 12, Newcastle-upon-Tyne, aud. ac.—*John Lamb*, Pendleton, Lancashire, grocer, Oct. 16 at 12, Manchester, aud. ac.—*George Fred. James*, Manchester, elastic web manufacturer, Oct. 16 at 12, Manchester, aud. ac.; Nov. 1 at 12, div.—*John Bradley*, Manchester, starch dealer, Oct. 16 at 12, Manchester, aud. ac.—*Joshua Andrews*, Threadneedle-street, City, stockbroker, Oct. 27 at 12, London, div.—*William Roberts*, Warren-street, Camden-town, Middlesex, builder, Oct. 27 at 12, London, div.—*John Faulkner*, Commercial-road, Surrey, cab proprietor, Oct. 27 at 11, London, div.—*John Allen*, Deptford, Kent, and Grey Eagle-street, Spitalfields, Middlesex, shoe manufacturer, Oct. 29 at half-past 11, London, fin. div.—*Charles Davies and Edward Davies* the younger, Ellesmere Port, Whitby, Cheshire, soap manufacturers, Oct. 26 at 11, Liverpool, div. joint est., and div. sep. of *Edward Davies* the younger.—*John Geard Bedells*, Brewood, Staffordshire, chemist, Oct. 20 at 11, Birmingham, div.

## CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*James Pitcher*, Hampstead-road, Middlesex, leather seller, Oct. 26 at 11, London.—*John Lee Stevens*, Fish-street-hill, London, dealer in iron, Oct. 29 at half-past 1, London.—*J. E. Pillinger*, Tredegar, Monmouthshire, draper, Oct. 29 at 11, Bristol.—*Richard Limbrick*, Bitton, Gloucestershire, miller, Oct. 29 at 11, Bristol.—*Charles Bradley*, Deepfields, near Bilston, Staffordshire, iron dealer, Nov. 9 at 11, Birmingham.—*Moses Cartwright*, Longton and Silverdale, Staffordshire, dealer in pottery materials, Nov. 9 at 11, Birmingham.—*Joseph Rothery*, Halifax, Yorkshire, watchmaker, Nov. 12 at 11, Leeds.—*Charles Wilson*, Bradford, Yorkshire, stuff merchant, Nov. 12 at 11, Leeds.—*Henry Kinross and James Shaw*, Kingston-upon-Hull, cab proprietors, Nov. 7 at 12, Kingston-upon-Hull.

*To be granted, unless an Appeal be duly entered.*

*William D. Hoad*, Rye, Sussex, shipbuilder.—*H. Cooper*, Aldgate, London, grocer.—*Wm. Haated*, Alresford, Hampshire, butcher.—*Edward Gardner*, Northampton, builder.—*John M'Alpine* the younger, Newington-road, Ball's-pool, Middlesex, bleacher.—*G. H. Lilie*, Black Swan-yard, Bermondsey, Surrey, tanner.—*Emmanuel Maignol*, Newgate-street, London, photographic agent.—*Wm. Fryer*, Norwich, shoe manufacturer.—*William M. Aylward*, Sermon-lane, Doctors' Commons, City, and Paragon-place, New Kent-road, Surrey, wine merchant.—*John Box*, Gloucester, corn merchant.

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*John M' Donald*, Torridon, Lochcarron, Ross-shire, farmer.—*Robert Gilmer*, Glasgow, grain agent.—*Wm. Steward*, Aberdeen, proprietor.—*Andrew Petrie*, Glasgow, watch manufacturer.—*John Wilson*, Lands of Pitkevy and Ballingall, Leslie, Fifeshire, farmer.

## TUESDAY, Oct. 9.

## BANKRUPTS.

**THOMAS GEORGE WICKS**, Beckford-row, Walworth, Surrey, linen-draper, Oct. 18 at half-past 12, and Nov. 24 at 11, London: Off. Ass. Bell; Sols. Lawrance & Co., 14, Old Jewry-chambers.—Pet. f. Oct. 6.

**WILLIAM HENRY VICKERS**, Suffolk-place, Lower-road, Islington, Middlesex, butcher, Oct. 18 at half-past 11, and Nov. 24 at 12, London: Off. Ass. Johnson; Sols. Champion & Jutsum, 71, Whitechapel-road.—Pet. f. Oct. 4.

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## THE JURIST.

LONDON, OCTOBER 13, 1860.

In a former number\* we drew attention to a bill then pending in Parliament "to amend the procedure and powers of the Court for Divorce and Matrimonial Causes." On that occasion we considered the subject of *collusion* in proceedings before that tribunal, endeavouring to shew the magnitude of the evil, and the utter insufficiency of the guards set up against it by the Legislature. That bill has now passed into law, and is become the 23 & 24 Vict. c. 144, and we now propose to direct attention to its principal parts.

The 1st section enables the Judge Ordinary "alone to hear and determine all matters arising in the said court, and to exercise all powers and authority whatever which may now be heard and determined and exercised respectively by the full Court, or by three or more judges of the said Court, the Judge Ordinary being one." That section, however, contains a proviso, that if he shall deem it expedient, he may call in the assistance of one of the other judges; and the 2nd empowers him to direct any matter to be heard and determined by the full Court. This last-mentioned section, and the 3rd, give an appeal from his decision to the full Court, or to the House of Lords.

According to the side-note of sect. 5, "the Court may, where one party only appears, require counsel to be appointed to argue on the other side;" but, on referring to the section itself, we find nothing about only one party appearing, the words being, "In every case of a petition for a dissolution of marriage it shall be lawful for the Court, if it shall see fit, to direct all necessary papers in the matter to be sent to her Majesty's proctor, who shall, under the directions of the Attorney-General, instruct counsel to argue before the Court any

question in relation to such matter, and which the Court may deem it necessary or expedient to have fully argued; and her Majesty's proctor shall be entitled to charge and be reimbursed the costs of such proceeding as part of the expense of his office."

But whatever the true construction of the 5th section in this respect, one of its objects seems to have been to provide a safeguard against collusion, respecting which, however, provisions still more explicit are to be found in sect. 7. That section may be looked on as divisible into two parts. The first enacts, that "every decree for a divorce shall in the first instance be a decree nisi, not to be made absolute till after the expiration of such time, not less than three months from the pronouncing thereof, as the Court shall by general or special order from time to time direct; and during that period any person shall be at liberty, in such manner as the Court shall, by general or special order in that behalf, from time to time direct, to shew cause why the said decree should not be made absolute by reason of the same having been obtained by collusion, or by reason of material facts not brought before the Court; and, on cause being so shewn, the Court shall deal with the case by making the decree absolute, or by reversing the decree nisi, or by requiring further inquiry, or otherwise as justice may require; and at any time during the progress of the cause, or before the decree is made absolute, any person may give information to her Majesty's proctor of any matter material to the due decision of the case, who may thereupon take such steps as the Attorney-General may deem necessary or expedient." This enactment is evidently based on a condemnation of the vicious principle involved in the former Divorce Acts, to which we alluded in our former article, namely, that a suit for divorce à vinculo matrimonii is entirely an affair between the contending parties themselves, so that neither third parties nor society have any interest in preventing such divorces being collusively or improperly obtained. For it will be observed that, according

\* July 28, 1860.

to this section, the right of interference to prevent collusion or mistake is not confined to the relatives of the parties, or to individuals legally interested in the result—it is given to “any person.” This is the principal security against collusion devised by this statute, and, so far as it goes, is a sound enactment. Another is afforded by the three months’ delay accorded by the first words of this section—a period which we cannot help thinking might with advantage have been made much longer, not only for the purpose expressed in the section, but by the interposition of delay to afford the parties time for consideration, which in many instances would lead to reconciliation. The latter part of the section enacts, “If, from any such information or otherwise, the said proctor shall suspect that any parties to the suit are or have been acting in collusion for the purpose of obtaining a divorce contrary to the justice of the case, he may, under the direction of the Attorney-General, and by leave of the Court, intervene in the suit, alleging such case of collusion, and retain counsel and subpoena witnesses to prove it; and it shall be lawful for the Court to order the costs of such counsel and witnesses, and otherwise, arising from such intervention, to be paid by the parties, or such of them as it shall see fit, including a wife if she have separate property; and in case the said proctor shall not thereby be fully satisfied his reasonable costs, he shall be entitled to charge and be reimbursed the difference as part of the expense of his office.” The object of this evidently is, not only to supply more effective means of carrying out the former part of the section, but to afford an additional check on collusion, by enabling the law officers of the Crown to interfere officially when it is suspected.

Collusion and connivance between the parties have ever been, and ever will be, the characteristic enemies of justice in all tribunals empowered to grant divorces à vinculo matrimonii. Whether, and to what extent, the securities devised by this statute will be efficient in repressing them, now remains to be seen; and we confess we look forward to the result with interest and anxiety.

#### REPORT OF THE SELECT COMMITTEE OF THE HOUSE OF COMMONS ON MERCHANT SHIPPING.

(Continued from p. 370).

“The various minute regulations affecting discipline, offences, recoveries, and applications of fines and penalties, are so mixed up with other considerations in connexion with the criminal law of the country, and with its general fiscal policy, that your committee need only especially recommend their consideration to the legal adviser of the Board of Trade in preparing any future revision of the present law.

“The question of the ‘rule of the road,’ and of an international system of lights at sea, when vessels meet each other, deserves, however, particular attention. This section in the act, as it stands at present, is most unsatisfactory, however the decision of our Courts of Admiralty may have modified its dangerous tendency. The evidence given is conclusive that some change in the existing regulation is necessary; and your committee express a hope that the Board of Trade will take steps to move the Foreign Office to communicate with foreign powers, with a view to the adoption of some

common system, founded upon general practice and professional experience; and that our law may be altered accordingly.

“The subject of volunteering into the navy has been much dwelt on. Very stringent orders have, your committee are informed, been issued by the Admiralty on this subject; and an improvement of the law was effected in 1853, by giving to the shipowner power to recover from the Admiralty any excess of wages he might have to pay to substitutes. Considering the small number of men who have actually volunteered into the navy, (215 in 1859), this power has been acted on to a considerable extent, 1180*l.* having been paid by the Admiralty in that year. But it has been represented to your committee that the great evil of the law arises not so much from the actual loss of the men, as from the power over the master which the liberty of breaking his agreement gives to a refractory seaman, and the insubordination which is the natural result. Your committee are aware that in cases of urgency the safety and efficiency of her Majesty’s ships must be the paramount consideration; but they believe that this object might be effected without so much injury to merchant ships if the power of volunteering were limited to times and places where there is actual war; and that even in this case the officers of her Majesty’s ships should be required to communicate with the master of the merchant ship with a view to see what arrangements can be made, so as least to distress the merchant ship, before communicating with any of the crew, or encouraging them to break their agreement by volunteering into her Majesty’s service.

“The superintendence established by the shipping offices, under the Merchant Shipping Act of 1854, over the registry, engagement, and discharge of seamen, has not been sufficiently long in operation to enable your committee to pronounce a decisive opinion upon its advantages.

“There appears a diversity of opinion amongst shipowners respecting the general utility of these offices. Several shipowners, especially from Hull and Sunderland, express an unequivocal condemnation of them, viewing them as an unnecessary medium between the employer and the employed. Other witnesses regard them in a more favourable light; and the chairman of the Liverpool Shipowners Association expresses an opinion that these offices have been a great advantage.

“The Legislature, in establishing the shipping offices, had, doubtless, several objects in view—to secure a registry of the seamen available at all times in the United Kingdom; to afford facilities for engaging seamen for merchant vessels; to prevent crimping, together with other duties; and to provide means for securing the presence on board, at the proper times, of the men so engaged.

“The shipping offices are also an essential part of the machinery necessary for the establishment of the royal naval reserve; and if the plan of school ships for seamen, and for a voluntary merchant seamen’s fund, recommended by the commission, is adopted, the services of the shipping-masters will be essential to its success.

“The evidence, however, given before your committee does not establish the proof that these offices have greatly conduced to prevent desertion, or afford facilities for an accurate registry of the seamen available. The offence of desertion, after the seamen have signed articles, has been but little abated, except in Liverpool, where, in consequence of the appointment of a superintendent, armed with power to prosecute offenders, the desertions, which in 1854 were 1872, and in 1857, 1716, fell in 1858 to 492, and in 1859 to 517.

“A suggestion has therefore been offered, in which your committee concur, that it would be desirable to arm some officer at all the principal ports with power to prosecute offenders to conviction, with a view to



abate the offence of desertion, and of not joining the ship, when ready to proceed to sea, after a contract had been signed by the seaman.

"Your committee also think that the relief given by British consuls to seamen in distress may be administered on a sounder principle than at present, and that in administering it a clear distinction ought to be drawn between men who have fallen into distress in foreign ports by their own misconduct in deserting, and those who have been shipwrecked, or reduced to distress without fault of their own.

"But if desertions at our home ports are not diminished, unless at ports where a strict control is exercised, desertions of British seamen abroad, and especially in our colonial ports, are still very numerous, and constitute a serious grievance and a pecuniary loss to the shipowner. Mr. Gilmour, of Glasgow, shews, by a paper prepared by him, that from the year 1851 to the 21st December last the total number of deserters from the ships belonging to his firm amounted to no less than 3003 men. Whilst deploring this state of things, in which British seamen under engagement transfer their services, and often their allegiance, to a foreign flag, no practical remedy has been suggested by any of the witnesses to prevent this and similar offences perpetrated out of the country.

"It would seem that the British seaman, exhibiting in every part of the world one of the characteristics by which he is distinguished, roams from one ship to another, not always tempted by an increase of wages, but often incited by a pure love of change. At Quebec, where the wages for the homeward voyage are greatly in excess of the wages outwards, desertion is carried on systematically, and a sailor having deserted from a ship belonging, for example, to Mr. Gilmour's firm, will often return home in another vessel belonging to the same owners.

"The whole question of desertion by British seamen abroad has been so frequently the subject of consideration, viewed especially as it bears incidentally upon manning the royal navy, as well as our merchant shipping, that your committee feel a hesitation in indicating a course of action which might inflict greater severity upon similar offences than now exists, as they fear that exceptional legislation directed against the British merchant seamen might further alienate their feelings of attachment to the service which it should be the object of the Legislature to encourage.

"To apply a summary punishment with a view to lessen or suppress special offences great circumspection would be necessary. In our own possessions abroad it is not always possible to put in motion any process of law against a seaman who deserts, and who designedly and deliberately violates his contract with the shipowner. In foreign countries the British consular authorities have still less power to enforce any adequate repressive punishment suitable to the various cases which arise. Even in our own ports it is often found inexpedient and troublesome to punish the sailor who, it is alleged, 'has signed for five ships within eight days, and received an allowance from them all.' Shipowners and captains of vessels invariably decline to have recourse to coercive measures to put the law in force against deserters. The shipping-master is not empowered by law to refuse to ship a man who he knows has engaged for another ship; and each party is content to forego proceedings, provided only he can secure the services of the man and get him on board. The impunity, therefore, with which desertion is now carried on necessarily encourages the practice; but the scrupulous regard with which the liberty of the subject is held by the Legislature precludes the idea of investing the shipping-master with a power of summary punishment; and the enforcement of any more stringent regulations than those which already exist

must be deprecated, if such coercion should tend to place the shipping-master and the seaman in antagonism. It would be a matter of regret, and, indeed, would materially diminish the utility of the shipping offices, if the seaman should be deprived of that friendly help-in family or other affairs which he now seeks from the shipping-master in time of trouble.

"From the evidence adduced before your committee, it does not appear that the institution of shipping offices, as they are at present organised, provides the machinery requisite for bringing the sailor under cognisance of official authority, so as to render him subservient to State purposes whenever an exigency might arise.

"But all parties bear unequivocal testimony to the beneficial effects produced by the facilities afforded the sailor for depositing his money in safety at the shipping offices, and of remitting any portion of his pay, by means of a money order, to his relations or other parties at a distance.

"In proof of this it has been shewn to your committee that these shipping offices are made instrumental in effecting various collateral objects, which they cannot but regard as of great importance to seamen, to the shipping interest, and to the country. By this system a seaman, when paid his wages, can remit them without charge to his relations at any other port; and it is with great satisfaction that your committee have learnt that the system has been eagerly adopted by seamen. The number of money orders issued has increased year by year, and in 1859 no less than 160,000. was remitted in 25,000 separate orders, averaging between 6*l.* and 7*l.* each, all of which may be looked upon as saved for the seamen's families by this system.

"The sums paid in, and the balances deposited in the savings banks at the shipping offices, are not up to this time very large, but they are steadily increasing.

"The shipping offices also afford the means of recovering, giving a receipt for, and paying over to the relations the wages and effects of seamen who die on service. In 1859 no less than 29,500*l.* was thus received, of which 21,600*l.* was distributed in sums averaging about 10*l.* each to relations, and nearly 8000*l.* carried to the Exchequer as unclaimed.

"Whatever opinions may have been expressed adverse to the shipping offices, your committee cannot recommend their discontinuance; they are of opinion that in any plan which Parliament may hereafter adopt for the establishment of a seamen's fund, to which the seamen of both the royal and merchant navy would be contributory, the facilities afforded by the present shipping offices would greatly promote the success of such a measure; and your committee are of opinion that the efforts of Parliament should be directed to carry out some such measure, combined with the establishment of training ships, in the various outports of the kingdom.

"Your committee especially urge upon the consideration of your Honourable House whether some measure cannot be conceived and framed by the wisdom of Parliament, so as to bring the whole of the seamen and seafaring population of the United Kingdom under some general and comprehensive regulation, whereby a system of registry and limited service might be established.

"Your committee submit that the objects to be obtained by such a measure, which could only be carried successfully through Parliament by high administrative talent and the patriotic influence of men of all parties, would be to place the relations of the shipowners and the seamen in their employ upon a just and satisfactory footing—to establish a naval reserve upon broad, liberal, and national principles, so as to conduce to greater harmony between the merchant service and the royal navy, and thereby secure for the nation the ready and willing service of all her sons in time of war.

"Your committee desires to notice the efficient provisions which have been made by this act for the preservation of life and property endangered by casualty and shipwreck. Lifeboats and their crews are in most instances subsidised, and brought into a system of efficiency and order through the medium of the National Lifeboat and other similar institutions; the rocket and mortar apparatus placed along the coast in the hands of the coast-guard has been renewed and re-organised; medals and other rewards are largely given for services in saving life from shipwreck; a legal claim to salvage out of the proceeds of a wreck has been given to persons who save life, and this claim takes precedence of claims for salvage of property. Large powers and duties for protecting wrecked property have been committed to, and are efficiently exercised by, the officers of customs and coast-guard, who thus discharge upon the coast the duties of maritime police; and prosecutions are invariably instituted by the Board of Trade against persons who are detected in plundering wrecks. The details of the working of this part of the act are to be found in the Wreck Register, published annually by the Board of Trade; and your committee have satisfaction in expressing their opinion, that in this respect the Merchant Shipping Act has not only removed the abuses which existed under the former Wreck and Salvage Act, but has been of great service in the protection of property and in the saving of life.

"Your committee cannot conclude this part of their Report without bearing testimony in approbation of the system established in recent years for the examination of masters and mates of merchant ships; a marked improvement is undoubtedly observable in this class of officers, and nearly every witness has concurred in recognising the practical advantages of the system."

#### 10. *Passenger Act, and Chinese Passenger Act.*

"The objections raised by many of the witnesses respecting the liabilities incurred under the Passenger Act of 1855 have been frequently so confused with complaints of various provisions of the Merchant Shipping Act of 1854, that your committee, having stated their opinion respecting the owner's liability in cases of loss of life, need not recur to that point. Your committee must, however, remark, that the allegation, that the liabilities to which the British shipowner is subjected under the terms of the two before-mentioned acts have had the effect of throwing a large portion of the passenger trade into the hands of foreigners, is disproved by the evidence of the chairman of the Emigration Board, and of the assistant secretary of the Board of Trade, who demonstrate that since the first extensive Passenger Act, in 1852, the per centage of British ships conveying passengers to the United States, as well as the number of steerage passengers, have exhibited a marked increase, instead of a diminution, as alleged. An opinion founded upon the returns of one port alone, viz. Liverpool, has led to some misconception. The Americans at all times possessed a preponderating share of the passenger trade from Liverpool to the United States, but the share they acquired from its commencement has not increased. It is shewn further that the richer class of passengers, who formerly went in United States ships, now cross the Atlantic in British steamers; and, in fact, British capital and perseverance have acquired a predominance in that branch of the passenger trade which was formerly carried on by a very fine class of American sailing vessels, known familiarly as the "liners." In emigrant ships, which carry poor passengers to all parts, the relative tonnage has increased from 350,000 tons British against 470,000 tons foreign in 1853, to 280,000 tons British against 240,000 tons foreign in 1859, and the proportion of passengers carried in British ships has increased correspondingly.

"The returns put in by the Board of Trade dispel

every notion that the passenger trade of the country is falling into the hands of foreigners; but, at the same time, your committee are sensible that it is of the greatest importance, that whilst every wise, humane, and proper provision should be enforced by law to secure the safety, health, and comfort of passengers conveyed in ships, vexatious regulations should be avoided, which tend to hamper unnecessarily the shipowner in the prosecution of his business. Any statutory regulation, applicable to British ships only, which, from the absence of effectual legislative control over foreign ships, places our shipowners at a disadvantage in the competition to which they are now subject, is especially to be avoided, and ought only to be adopted from overwhelming considerations of public policy, or with a view to the safety of life and property.

"Your committee have had many complaints laid before them of several of the provisions of the Merchant Shipping Act, in cases where that act becomes applicable to steam-ships carrying passengers. It appears that the Board of Trade does not interfere with cargo vessels; but if a vessel carries 'a passenger,' according to the interpretation clause of the act, the Board of Trade steps in, and exacts all the requirements specified by law. One of the witnesses, Mr. Laird, complained of the qualifications of the Government surveyors, as compared with those of many of the shipbuilders. Another witness made complaints of the 'spacing of the bulkheads,' as required by the act, having the effect of rendering the ship comparatively useless for the purposes of carrying cargo.

"Your committee are unable to make special recommendations upon these and many similar matters, and they must refer your Honourable House to the details as set forth in the evidence. The difficulty of legislating upon minute regulations, which seem to bear harshly upon individual cases, whilst in the main they effect the object in view, is so obvious, that, except in regard to iron vessels, which deserve greater attention from their comparative novelty, your committee are of opinion that only such changes should be effected as experience may prove desirable. With regard to iron vessels, and the general duties of the surveyors, your committee think the discretionary power of the Board of Trade, as limited by law, may be trusted in the framing of the requisite instructions to guide the officers under the control of that department; but your committee are of opinion that those instructions should be framed to meet the great improvements which are constantly taking place both as regards construction and equipment.

(To be continued).

JOHN SKINNER, Northampton, shoe manufacturer, Oct. 18 at 11, and Nov. 20 at half-past 11, London: Off. Ass. Bell; Sols. Hensman, Northampton; Hensman & Nicholson, 25, College-hill.—Pet. f. Oct. 5.

BENJAMIN WILLIS HARKER, Pentonville-road, Middlesex, linendraper, Oct. 18 and Nov. 20 at 2, London: Off. Ass. Johnson; Sol. Bailey, 8, Tokenhouse-yard.—Pet. f. Sept. 26.

JAMES THOMAS, Abingdon, Berkshire, builder, and Calham, Oxfordshire, brickmaker, Oct. 20 at 12, and Nov. 16 at half-past 12, London: Off. Ass. Cannan; Sols. Graham, Abingdon; Graham & Lyde, 1 and 3, Mitre-court-chambers, Temple.—Pet. f. Oct. 5.

BENJAMIN REYNOLDS, late of Farringdon-st., City, now of Hoxton Old-town, Middlesex, cheesemonger, Oct. 23 at half-past 12, and Nov. 16 at 1, London: Off. Ass. Stansfeld; Sol. Lumley, 41, Ludgate-street, London.—Pet. f. Oct. 6.

JOHN TRIPP, Cross-street, Walworth, Surrey, tallow chandler, (surviving partner of the firm of Elizabeth Tripp & Son), Oct. 22 at 2, and Nov. 19 at 11, London: Off. Ass. Pennell; Sol. Harcourt, 2, King's Arms-yard, Moorgate-street, London.—Pet. f. Sept. 26.

**THOMAS GRIFFIN**, Hampton-terrace, Hampstead-road, Middlesex, bookseller, Oct. 18 at 12, and Nov. 22 at 11, London: Off. Ass. Ball; Sol. Watson, 18, Cannon-street.—Pet. f. Oct. 5.

**CHARLES PRITCHARD**, East-place, Walcot-place, Lambeth, Surrey, plumber, Oct. 20 at half-past 11, and Nov. 16 at 2, London: Off. Ass. Cannan; Sol. Robinson, 17, Ironmonger-lane.—Pet. f. Oct. 6.

**WILLIAM PIKE**, High-street, Wapping, Middlesex, victualler, Oct. 23 at 1, and Nov. 20 at 12, London: Off. Ass. Graham; Sol. Barton, 4, Wolsingham-place, Lambeth.—Pet. f. Oct. 4.

**THOMAS JOHNSON**, Bilston, Staffordshire, iron merchant, Oct. 25 and Nov. 15 at 11, Birmingham: Off. Ass. Kinnear; Sols. Duignan & Ebeworth, Walsall.—Pet. d. Oct. 2.

**WILLIAM SYKES**, Kinver, Staffordshire, travelling draper, Oct. 23 and Nov. 12 at 11, Birmingham: Off. Ass. Kinnear; Sols. Smith, Birmingham; Homfray, Brierley-hill, Staffordshire.—Pet. d. Oct. 4.

**JOSEPH TONGUE**, Rugby, Warwickshire, shoemaker, Oct. 25 and Nov. 15 at 11, Birmingham: Off. Ass. Whitmore; Sols. James & Knight, Birmingham; Overill, Leamington.—Pet. d. Oct. 5.

**THOMAS ALFRED RAGG**, Birmingham and Edgbaston, Warwickshire, bookseller, Oct. 22 and Nov. 12 at 11, Birmingham: Off. Ass. Kinnear; Sols. Green & Kimberley, Birmingham.—Pet. d. Oct. 5.

**JOSEPH THOMAS BROWN**, Coventry, Warwickshire, watch manufacturer, Oct. 25 and Nov. 15 at 11, Birmingham: Off. Ass. Whitmore; Sols. Davis, and Minster & Son, Coventry; Hodgson & Allen, Birmingham.—Pet. d. Oct. 5.

**JAMES TONKS**, Walsall, Staffordshire, currier, Oct. 25 and Nov. 15 at 11, Birmingham: Off. Ass. Whitmore; Sols. Thomas, Walsall; Hodgson & Allen, Birmingham.—Pet. d. Oct. 2.

**JOHN WAUGH DAWSON**, Newcastle-under-Lyme, Staffordshire, cotton spinner, Oct. 22 and Nov. 12 at 11, Birmingham: Off. Ass. Whitmore; Sols. Litchfield, Newcastle-under-Lyme; James & Knight, Birmingham.—Pet. d. Oct. 1.

**WILLIAM TURPIN**, Plymouth, Devonshire, draper, Oct. 27 and Nov. 19 at half-past 12, Plymouth: Off. Ass. Hirtzel; Sol. Clarke, Exeter.—Pet. f. Oct. 4.

**SAMUEL RANDLE**, Plymouth, Devonshire, auctioneer, Oct. 27 and Nov. 19 at half-past 12, Plymouth: Off. Ass. Hirtzel; Sols. Edmonds & Sons, Plymouth; Turner & Hirtzel, Exeter.—Pet. f. Oct. 3.

**THOMAS LINLEY**, Beverley, Yorkshire, grocer, Oct. 24 and Nov. 14 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sols. Holden & Sons, Kingston-upon-Hull.—Pet. f. Sept. 19.

**JAMES SAUNDERS**, Claughton, Birkenhead, Cheshire, general agent, Oct. 16 and Nov. 12 at 11, Liverpool: Off. Ass. Morgan; Sols. Evans & Co., Liverpool.—Pet. f. Sept. 26.

**ALEXANDER BAIN**, Ardwick, Manchester, draper, Oct. 19 and Nov. 9 at 12, Manchester: Off. Ass. Fraser; Sols. E. & W. Mann, Manchester.—Pet. f. Sept. 29.

**WILLIAM WOLSTENHOLME**, Old Garratt, Manchester, ironmonger, Oct. 19 and Nov. 9 at 12, Manchester: Off. Ass. Pott; Sols. Walker, Wolverhampton; Sale & Co., Manchester.—Pet. f. Sept. 27.

#### MEETINGS.

*Isaac Sharman*, Spalding, Lincolnshire, upholsterer, Oct. 24 at 12, London, last ex.—*Joseph Bushell* and *Alfred Walker*, Wood-street, City, and Harpenden, Hertfordshire, straw-hat manufacturers, Oct. 19 at 11, London, and ac.—*Samuel Aymer Beeman*, Coal Exchange Cellars, Lower Thames-street, City, wine merchant, Oct. 19 at half-past 11, London, and ac.—*Anna Amelia Levers*, Liverpool, hoisier, Oct. 23 at 11, Liverpool, and ac.; Oct. 30 at 11, div.—*Timothy Bourne Bourne*, Liverpool, cotton broker, Oct. 23 at 11, Liverpool, and ac.; Oct. 30 at 11, div.—*John Longton*, Liverpool, ship broker, Oct. 23 at 11, Liverpool, and ac.; Oct. 30 at 11, div.—*Charles Davies* and *Edward Davies* the younger, Whitby, Cheshire, soap manufacturers, Oct. 23 at 11, Liverpool, and ac. joint est., and and ac. sep. est. of *E. Davies* the younger.—*Ephraim Jobbins*, Gloucester, carrier, Nov. 8 at 11, Bristol, and ac.—*Richard Limbrick*,

Bitton, Gloucestershire, miller, Nov. 1 at 11, Bristol, and ac.—*Henry Dooson*, Newcastle-upon-Tyne, draper, Oct. 24 at half-past 12, Newcastle-upon-Tyne, and ac.—*John Machin Hall*, Sheffield, Yorkshire, paper dealer, Oct. 20 at 10, Sheffield, and ac.—*Joseph Richmond*, Bradway, Norton, Derbyshire, corn factor, Oct. 20 at 10, Sheffield, and ac.—*William Worrall*, West Melton, near Wath, Yorkshire, grocer, Oct. 20 at 10, Sheffield, and ac.—*James Wates*, Gravesend, Kent, hotel keeper, Nov. 5 at 12, London, div.—*Samuel Towers*, Pittfield-street, Hoxton, Middlesex, looking-glass manufacturer, Nov. 6 at half-past 11, London, div.—*John W. Bush*, Wandsworth, Surrey, colour manufacturer, Nov. 5 at 1, London, div.—*John Madin* and *Richard Webster*, Newark, Nottinghamshire, common brewers, Nov. 1 at 11, Nottingham, and ac. and div.—*Wm. Goddard*, Leicester, shoe manufacturer, Nov. 1 at 11, Nottingham, div.—*Samuel Wright*, Manchester, hotel keeper, Nov. 2 at 12, Manchester, div.—*Peter Williamson* the younger, Salford, Lancashire, grocer, Nov. 1 at 12, Manchester, div.

#### CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*Frank Holloway*, Paul-street, Finsbury, Middlesex, engineer, Nov. 1 at half-past 11, London.—*Horatio Nelson Hornby*, Little Tower-street, City, and Nine Elms, Vauxhall, Surrey, common carrier, Oct. 31 at 1, London.—*Charles Allen*, Risca, Monmouthshire, grocer, Nov. 5 at 11, Bristol.—*John Wesley Swann*, Manchester, India-rubber manufacturer, Nov. 2 at 12, Manchester.—*Joseph Corns*, Stourbridge, Worcestershire, soda-water manufacturer, Nov. 9 at 11, Birmingham.—*Walter Noah*, *John Noah*, and *John B. Clark*, Droitwich, Worcestershire, salt manufacturers, Nov. 9 at 11, Birmingham.—*John C. Lench*, Birmingham, leather seller, Nov. 5 at 11, Birmingham.—*Thomas Walker*, Birmingham, provision dealer, Nov. 9 at 11, Birmingham.—*Frederick C. Perry*, Walsall and Bilston, Staffordshire, and Stockport, Cheshire, ironmaster, Nov. 12 at 11, Birmingham.—*Albino Williamson*, Nottingham, blacksmith, Nov. 6 at half-past 11, Nottingham.—*William Hughes*, Leicester, grocer, Nov. 13 at half-past 11, Nottingham.—*Edward Wherry*, Market Deeping, Lincolnshire, grocer, Nov. 6 at half-past 11, Nottingham.

*To be granted, unless an Appeal be duly entered.*

*Richard Ellis*, Northampton, chemist.—*Frederick Gibson*, Tottenham-road, Kingsland-road; Ball's-pond-road, Islington; and King-street, Turk-street, Bethnal-green, Middlesex, baker.—*George Curtis*, Landport, Hampshire, licensed victualler.—*Francis Bennett John Read*, Leadenhall-market, City, and Upper North-street, Bethnal-green, Middlesex, butcher.—*Jas. Berry Blackburn*, Norwich, currier.—*Chas. Henry Gilks*, Union-row, Tower-hill, and Wapping, Middlesex, ironmonger.—*Thos. Porter*, Beauvoir-place, Kingsland, Middlesex, chairmaker.—*J. Austen*, Pierrepont-row, Islington, Middlesex, leather seller.—*Frederic George Orchard* and *George Frederick Cunningham*, Brick-lane, Old-street, St. Luke's, Middlesex, rick-cloth manufacturers.—*J. Green*, Philpot-lane, City, commission agent.—*Lewis Philip Sutton*, Aberavon, Glamorganshire, wine dealer.—*William Osborne*, Birkenhead, Cheshire, printer.—*A. Cumming* the younger, Liverpool, merchant.—*Wm. Palin* and *John Craven Palin*, Chester, maltsters.

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# The Jurist

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OCTOBER 20, 1860.

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October, 1860.

O O

## GAZETTES.—FRIDAY, Oct. 12.

## BANKRUPTS.

JOHN KEEN, Leadenhall-street, City, merchant, Oct. 23 at 2, and Nov. 29 at 12, London: Off. Ass. Bell; Sols. Morris & Co., Moorgate-street-chambers, London.—Pet. f. Oct. 10.

ROBERT STEVENS, Ipswich, Suffolk, innkeeper, Oct. 23 at 12, and Nov. 29 at 1, London: Off. Ass. Johnson; Sols. Josseylin & Son, Ipswich; W. & H. P. Sharp, Leadenhall-street, London.—Pet. f. Sept. 26.

ALFRED SILVESTER, New Dorset-place, Clapham-road, Surrey, photographic artist, Oct. 25 at 1, and Nov. 29 at 2, London: Off. Ass. Johnson; Sol. Aubin, 38, Moorgate-street, London.—Pet. f. Oct. 12.

JOHN COOPER, Great Yarmouth, Norfolk, printer, Oct. 25 and Nov. 23 at 1, London: Off. Ass. Whitmore; Sols. Lawrence & Co., 14, Old Jewry-chambers, Old Jewry.—Pet. f. Oct. 8.

BENJAMIN GOODSON the younger, Little Coggeshall, Essex, farmer, Oct. 24 at 2, and Nov. 21 at 12, London: Off. Ass. Graham; Sols. Aldridge & Bromley, 1, South-square, Gray's-inn, London.—Pet. f. Oct. 10.

SOLOMON LINDO, Westbourne-grove, Baywater, Middlesex, wine merchant, Oct. 24 at half-past 12, and Nov. 26 at 11, London: Off. Ass. Pennell; Sol. Solomon, 22, Finsbury-place, London.—Pet. f. Oct. 10.

CHARLES WILLIAM BOURNE, Dudley, Worcestershire, corn factor, Oct. 25 and Nov. 15 at 11, Birmingham: Off. Ass. Whitmore; Sols. Hodgson & Allen, Birmingham.—Pet. d. Oct. 8.

JAMES WHITTAKER EVANS, Newcastle-under-Lyme, Staffordshire, cotton spinner, Oct. 22 and Nov. 12 at 11, Birmingham: Off. Ass. Kinnear; Sols. Litchfield, Newcastle-under-Lyme; James & Knight, Birmingham.—Pet. d. Oct. 9.

JOHN SIDDONS and WILLIAM CLARK, Great Bridge, Staffordshire, ironfounders, Oct. 25 and Nov. 15 at 11, Birmingham: Off. Ass. Whitmore; Sols. Duignan & Ebsworth, Walsall.—Pet. d. Oct. 9.

THOMAS RAGG, Birmingham, stationer, Oct. 25 and Nov. 15 at 11, Birmingham: Off. Ass. Kinnear; Sols. James & Knight, Birmingham; Thorn, Wolverhampton.—Pet. d. Oct. 4.

JABEZ FOWLER, Tredegar, Monmouthshire, draper, Oct. 23 and Nov. 20 at 11, Bristol: Off. Ass. Acraman; Sols. Kearsey, Stroud; Abbot & Co., Bristol.—Pet. f. Oct. 2.

DANIEL PLATTEN, Dorchester, Dorsetshire, draper, Oct. 26 and Nov. 28 at 1, Exeter: Off. Ass. Hirtzel; Sols. Hulton & Brett, Salford; Laidman, Exeter.—Pet. f. Sept. 21.

MATILDA ARCHER, Fife, Yorkshire, grocer, Oct. 26 and Nov. 16 at 11, Leeds: Off. Ass. Young; Sols. Richardson, Bridlington; Clarke, Leeds.—Pet. d. and f. Oct. 11.

## MEETINGS.

*George Chamberlain* the younger, Crawford-street, St. Marylebone, Middlesex, lead merchant, Nov. 6 at half-past 11, London, last ex.—*James Nutt*, Leadenhall-street, City, jeweller, Oct. 24 at half-past 1, London, last ex.—*J. Moore*, Sudsey, Yorkshire, cloth manufacturer, Nov. 2 at 11, Leeds, last ex.—*Joseph Hooper*, New Weston-street, Bermondsey, Surrey, leather merchant, Oct. 25 at 2, London, aud. ac.; Nov. 2 at 1, div.—*Robert Spear Begbie*, Great Winchester-street, City, merchant, Oct. 26 at half-past 11, London, aud. ac.—*Thomas Charlton Richardson*, West Auckland, Durham, druggist, Oct. 24 at 12, Newcastle-upon-Tyne, aud. ac.—*William Thorpe*, Goole, Yorkshire, stonemason, Nov. 13 at 11, Leeds, aud. ac. and div.—*Wm. Thos. Senior*, Horbury-bridge, Yorkshire, fellmonger, Nov. 13 at 11, Leeds, aud. ac. and div.—*Samuel Hammond*, Leeds, Yorkshire, flaxspinner, Nov. 13 at 11, Leeds, aud. ac. and div.—*John Richard Teale*, Leeds, Yorkshire, cabinet maker, Nov. 13 at 11, Leeds, aud. ac.—*Joseph Slater*, Leeds and Oulton, Yorkshire, stone merchant, Nov. 13 at 11, Leeds, aud. ac. and div.—*Robert F. Pries*, Crosby Hall-chambers, Bishopsgate-street Within, City, merchant, Nov. 6 at 11, London, div.—*Samuel Langford*, Myddelton-st., Clerkenwell, Middlesex, leather seller, Nov. 5 at 1, London, div.—*John Robert Roberts*, Crispin-street, Spitalfields, Middlesex, potato salesman, Nov. 5 at 12, London, div.

## PARTICULARS.

To be allowed, unless Cause be shown to the contrary on or before the Day of Meeting.

*Arthur Wentworth* and *Thomas Wentworth*, Skin-market, Bermondsey, Surrey, hide salesmen, Nov. 5 at 2, London.—*John R. Roberts*, Crispin-street, Spitalfields, Middlesex, potato salesman, Nov. 5 at 12, London.—*Aug. Brine*, Euston-road, St. Pancras, and Great Northern Stone Wharf, Canal-road, Caledonian-road, Middlesex, marble merchant, Nov. 5 at 1, London.—*Thomas H. Harper*, Abingdon, Berkshire, confectioner, Nov. 2 at half-past 12, London.—*James Heseltine*, Norwich, hotel keeper, Nov. 3 at half-past 11, London.—*Thomas Lambert* the younger, Stowupland, Stowmarket, Suffolk, steam thrasher, Nov. 3 at 12, London.—*Edward Jones*, Marlborough, Wiltshire, horse dealer, Nov. 6 at 11, Bristol.—*Joseph E. Davies*, Newport, Monmouthshire, innkeeper, Nov. 6 at 11, Bristol.—*Joseph Boile*, Newcastle-upon-Tyne, leather seller, Nov. 7 at half-past 11, Newcastle-upon-Tyne.—*Isaac John Barrett*, Liverpool, hotel keeper, Nov. 5 at half-past 12, Liverpool.—*R. Carruthers* and *G. Carruthers*, Liverpool, drapers, Nov. 5 at 1, Liverpool.—*Wm. Herring*, Liverpool, confectioner, Nov. 5 at 12, Liverpool.

To be granted, unless an Appeal be duly entered.

*Thomas Litchfield*, Twickenham, Middlesex, surgeon.—*Alfred B. Bloam*, Southampton-street, Strand, Middlesex, wine merchant.—*John F. Eyles*, Brighton, Sussex, printer.—*Wm. A. Stapley*, Old Compton-street, Soho, Middlesex, shoe mercer.—*Alfred Francis Whitburn*, Enfield, Middlesex, brewer.

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## TUESDAY, Oct. 16.

## BANKRUPTS.

EGBERT LAMBLEY, Charles-street, Soho-square, Middlesex, tailor, Oct. 25 at 1, and Nov. 29 at 11, London: Off. Ass. Johnson; Sol. King, 25, College-hill.—Pet. f. Oct. 13.

ROBERT EDWARD MARTIN, Brighton, Sussex, surgeon, Oct. 26 at half-past 1, and Nov. 30 at 1, London: Off. Ass. Whitmore; Sol. Stopher, 36, Coleman-street.—Pet. f. Oct. 13.

HENRY EDGAR MORGAN, Oxford, confectioner, Oct. 26 at half-past 11, and Nov. 30 at 12, London: Off. Ass. Cennan; Sols. Dudley, Oxford; Parker & Co., 17, Bedford-row.—Pet. f. Oct. 15.

FRANK ADAMS, Chancellor's Wharf, Hammersmith, Middlesex, lighterman, Oct. 31 at half-past 2, and Nov. 28 at 1, London: Off. Ass. Stansfeld; Sols. Lawrence & Co., 14, Old Jewry-chambers, London.—Pet. f. Oct. 15.

WILLIAM JOHN COX, Fetter-lane, City, grocer, Oct. 31 at 2, and Nov. 28 at 12, London: Off. Ass. Stansfeld; Sols. Walter & Moojen, 8, Southampton-street, Bloomsbury.—Pet. f. Oct. 8.

MOSES MOSES, Devonshire-square, City, merchant, Oct. 31 at half-past 12, and Nov. 28 at 2, London: Off. Ass. Graham; Sol. Snell, 15, St. Swithin's-lane, London.—Pet. f. Oct. 15.

WALTER LAWRENCE, Budock, Cornwall, cowkeeper, Nov. 7 at 11, and Nov. 28 at 1, Exeter: Off. Ass. Hirtzel; Sols. Moorman, Falmouth; Turner & Hirtzel, Exeter.—Pet. f. Oct. 2.

JOHN TURNER, Halifax, Yorkshire, grocer, Oct. 26 and Nov. 16 at 11, Leeds: Off. Ass. Young; Sols. Adam & Emmet, Halifax; Simpson, Leeds.—Pet. d. and f. Oct. 12.

JOSEPH MATHEWS, Holywell, Flintshire, innkeeper, Oct. 26 and Nov. 16 at 12, Liverpool: Off. Ass. Turner; Sols. Jones & Paterson, Liverpool.—Pet. f. Oct. 11.

JOHN ROWBOTHAM and JAMES SHAW, Manchester, picture dealers, (trading under the firm of John Rowbotham), Oct. 31 and Nov. 21 at 12, Manchester: Off. Ass. Hernaman; Sol. Baker, Manchester.—Pet. f. Oct. 10.

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## THE JURIST.

LONDON, OCTOBER 20, 1860.

THE Trustees and Mortgagees Bill, introduced by Lord Cranworth to the House of Lords, where it was in its last stage deprived of those objectionable features which we had previously pointed out and commented upon in our articles in May and June last, was at a late period of a late session carried, with some further amendments, through the House of Commons. If we might hazard a conjecture, its passage through that assembly may have been somewhat facilitated by a desire that something having the semblance of a measure of law reform should be added to the Statute-book of the year 1860.

Whether the act will be effective, or a mere dead letter, like other enactments of a similar or analogous class, remains to be proved. In a liberal profession like that of the law no private interest on the part of practitioners is likely to induce them to throw any obstacles in the way of the working of the act, unless their duty towards their clients renders it proper that they should adopt such a course. The act, however, being now the law of the land, and as it will affect (except where its operation is excluded) a large number of conveyancing instruments, it may not be without use to examine its different provisions with some minuteness and particularity.

The object of the act is stated, though not with very great precision, in the preamble, to be the expediency "that certain powers and provisions which it is now usual to insert in settlements, mortgages, wills, and other instruments, should be made incident to the estates of the persons interested, so as to dispense with the necessity of inserting the same in terms in every such instrument." The act is divided into four parts. The first part has reference to powers of sale

and exchange, and to the renewal of leases. The second part relates to the powers of mortgagees. The third part contains provisions as to the investment of trust funds, and the appointment and powers of trustees and executors. The fourth part contains certain general provisions.

With regard to the first part of the act, we may observe, that it does not, in accordance with the preamble of the act, make powers of sale and exchange incident to the estate of any person interested, but it gives powers of sale and exchange in pretty much the same terms as they are to be found in the precedent books, "in all cases where, by any will, deed, or other instrument of settlement, it is expressly declared that trustees or other persons therein named or indicated shall have a power of sale, either generally or in any particular event, over any hereditaments named or referred to in, or from time to time subject to, the uses or trusts of such will, deed, or other instrument."

The only object of this part of the act appears to be merely to shorten instruments, by importing from the act to instruments certain powers applicable to many, but not to all, cases where the instruments indicate that trustees or other parties are to have such powers. In many cases the ordinary forms will require alteration, so as to provide for the varying circumstances of the property dealt with, or of the family to whom it belongs; in these cases it will be proper to exclude the operation of the act. In other cases, where the ordinary forms require no alteration, the only question for practitioners will be, what saving will be effected by the omission of the ordinary powers of sale and exchange, and whether it will not be overbalanced by the inconvenience of the trustees, or other persons who are to exercise these powers, not having them in the instrument under which they act, and consequently being obliged to seek for them elsewhere.

We may here remark, that it appears to us, accord-



ing to the proper construction to be put upon the 1st section, that the powers of exchange contained in the act can only be imported into an instrument, or acted upon, where there is a power of sale as well as of exchange; for in the 1st section, it will be observed, the power of exchange is only given "in case the power"—i. e. a power of sale, (a power of sale having only been previously mentioned)—"shall expressly authorise an exchange."

There is a new proviso inserted after the 4th section, which was very much needed, with regard to the investment of money arising from sales, or for equality of exchange, viz. "that no leasehold tenement shall be purchased under the powers hereinbefore contained which is held for a less period than sixty years."

Had this proviso not been inserted, freeholds might have been sold during the disability of a person entitled to the rents, and invested in leaseholds having only a term of a few years to run.

Another very necessary section (sect. 6) has been inserted while the act was passing through Parliament, according to which the proceeds of lands in England and Wales, coming under the operation of the power of sale and exchange, can only be invested in the purchase of lands in those countries; the same also is enacted with respect to the proceeds arising from land in Ireland, which can only be invested in lands in Ireland.

According to the bill as first introduced, trustees having a power of sale might, during the disability of the beneficial owner, have sold lands in the wealds of Kent, and purchased instead bogs in the wilds of Conemara.

In the 7th section of the act, the money to be received upon any sale, or for equality of exchange, is, until disposed of in the manner mentioned in the act, to be *invested at interest*. This section, however, does not say how, or refer to any other section of the act stating in what way, such investment is to be made, but we presume such money must be invested according to the provisions of the 25th section.

We intend shortly to make some remarks upon the remaining sections of the act.

#### REPORT OF THE SELECT COMMITTEE OF THE HOUSE OF COMMONS ON MERCHANT SHIPPING.

(Concluded from p. 378).

"As regards the 3rd section of the Passengers Act, by which a vessel carrying two passengers to every 100 tons is brought under its provisions, your committee, having heard the explanation given by the intelligent chairman of the Emigration Board of the reasons which prevailed with Parliament to alter the lower limit established previously to 1855, and his statement that if the limit of the old law was again made the rule, a large number of passengers would be carried without bringing the ships under the Passengers Act, are nevertheless of opinion that an extension might be made of the existing limit, so as to allow three passengers to every 100 tons register, so long as the number of passengers in any one ship did not exceed fifty; and your committee recommend an alteration in the present law accordingly. A corresponding relative increase might be made in the number of passengers allowed to be carried by steamers.

"The complaints made by many witnesses, of the hardship and excessive liabilities to which shipowners are exposed by the statutory obligations in the present Passengers Act, in the event of a ship being disabled in a foreign port, to send on the passengers, through the intervention of the consular authorities, from the place where the passengers are detained, to the port of destination, seem in a great measure to rest upon an imperfect knowledge of the actual state of the law. Several witnesses, largely engaged in the passenger trade, are under the impression that an unlimited liability is incurred, and that, 'at any cost whatever,' the passengers must be sent on at the expense of the shipowner. It has been stated, in every variety of form, that this obligation deters respectable parties from embarking in the passenger trade, and that enormous sums have been drawn upon the Treasury, to be reimbursed by the shipowner in fulfilment of his engagement with the passenger. It is further urged, that foreign vessels, especially Americans, are exempt from this liability, the owners or agents of these vessels being only required to give a bond for 2000*l.*, the enforcement of which, in the event of disaster, is practically impossible.

"Your committee cannot recommend any change in the provisions of the Passengers Act in this respect, except, if practicable, to bring the foreign ship under precisely the same obligations as the English ship. Your committee are of opinion that the common law of England, enforced by the statutory provisions of the Passengers Act, requires the shipowner to fulfil his contract of affreightment, and to deliver his passengers at the port of destination stipulated in the agreement between the parties. There is no valid reason to believe that any foreign law differs from our own in this respect, though other nations may not be so largely engaged in the passenger trade, and therefore such liability would not so frequently arise.

"But the Passengers Act of 1855 expressly limits the liability of the shipowner to double the amount of the passage money paid. From any such additional risk the shipowner can protect himself by insurance; and from all liability of any excess above that amount, incurred and drawn for by the consul abroad on the Treasury, the shipowner is now relieved by law. The expense actually paid by Government since 1849, not including The John and Lucy and some others, has been 16,650*l.*; whilst the amount recovered from shipowners has been only 5260*l.* There is 20,000*l.* still in dispute, a large portion of which will, no doubt, fall upon the Treasury. As regards the apparently exorbitant outlay which is reported in the cases of The John and Lucy and The Accrington, your committee urge that measures should be taken to audit and control the accounts and charges made by the consul in similar cases, with a view to prevent the necessity of more stringent regulations being adopted by the Government in the supervision of passenger vessels prior to their departure, which otherwise might be insisted upon by Parliament. The present law having been framed, pursuant to the recommendation of a committee of the House of Commons which sat in 1851, with a view to overcome the difficulties which previously existed in cases where a ship was wrecked upon a foreign and inhospitable coast, and the Government having, in the first instance, assumed the expense of supporting and sending on the passengers, your committee could not propose to alter a law which had its origin in a desire to save human life. It having been given in evidence that the liability to the amount of passage money received, as fixed by the act of 1852, was found inadequate to meet the expenses incurred, and as, in the instances already referred to, very large sums will be paid by the Government in excess of the amounts recoverable from the owners under the present law, your committee cannot recommend any alteration, especially as the additional risk

incurred is made legally insurable under the 55th section of the Passengers Act.

"The complaints made in respect of the exemptions from the provisions of the Passengers Act, secured by law to vessels carrying a mail, deserve attention. Your committee are of opinion, that now that a large number of passengers are conveyed in foreign vessels carrying her Majesty's mails, which are accordingly exempted, under the Passengers Act, from the supervision of the emigration officers at the outports, it is desirable that such exemptions should be jealously watched; and care should be taken, in making future contracts, that foreigners should not thereby acquire any undue advantage over British shipowners in the passenger or carrying trades.

"As regards the limitation of the number of the crew in vessels brought under the supervision of the Emigration Board, your committee, considering that the law has wisely left the shipowner liberty of action to man his ships with a greater or less number of seamen, at his discretion, are of opinion that express legislation upon this point is inexpedient. But as it is given in evidence that the Emigration Commissioners were willing to reduce the crews of vessels taken up by the board, if the Admiralty sanctioned such a proceeding, and as the Admiralty did not think it expedient to take the responsibility of authorising such relaxation in the vessels under their control, your committee, though they see no reason to alter the terms of the existing regulation, which requires the vessel to be manned with an efficient crew for her intended voyage, are of opinion that a discretionary power may safely be left, without reference to the Admiralty, in the hands of the Emigration Commissioners, with a power of appeal against their decision.

"The minor alterations proposed in the provisions of the Passengers Act in respect of carrying dogs, horses, cattle, of the position of the water-closets, of ventilation, brokers' tickets, computation of the length of a voyage for a passenger ship, and other matters, will be found in the evidence, and, though of considerable importance, they do not require special notice, as the amendment of these and similar regulations, many of which require alteration, may be safely left to the discretion and judgment of the officers of the Board of Trade, and the Emigration Commissioners, whose special studies and experience qualify them for dealing with such details.

"In respect of the Chinese Passenger Act, 1855, the only witness examined upon the subject, an experienced shipbroker, states that there is nothing objectionable in its provisions, and that no alteration in the act is required; but he admits that he has little or no knowledge of the trade. Very few British ships, it appears, are engaged carrying coolies from China to the West Indies, and it is currently reported that the regulations of the act are so stringent that British vessels are prevented from entering that trade. It seems that the coolie trade is principally carried on by American ships, and it is stated that the conduct of the masters and crews of these vessels is notoriously so bad that the attention of the United States Legislature has been directed to the subject, not with a view to regulate the trade, but to abrogate it altogether, as regards United States vessels. It is right to add that cases have been brought before the local Marine Board of London which required that the conduct of masters and officers of British ships engaged in the trade should be investigated; but, your committee rejoice to state, without implicating them in any of the atrocities which have taken place.

"Your committee, bearing in mind the mortality reported in 1857 in certain vessels which carried coolies from China to the Havana, and reviewing the very proper and humane object which the Chinese Passenger

Act had in view, are not disposed to recommend any material relaxations of the salutary provisions of that act; and they submit that the suggestions for prohibiting British vessels from carrying Chinese passengers, familiarly known as coolies, to slaveholding states in America, or to any country where slavery is tolerated, is well worthy of the favourable consideration of your Honourable House."

#### 11. Stamp Duties.

"Your committee are of opinion, considering the reduction which in many cases has been made in the stamp duties, that the existing impressed stamp of 5s. on charterparties might with propriety be reduced. The ordinary mode of transacting the business of charterparties occasions, as will be seen by reference to the evidence, very great inconvenience, and leads to considerable evasion of stamp duties, especially in the coasting trade. The reduction to 1s. by an adhesive stamp would doubtless yield as large, if not a larger, revenue than is derived from that source at present, while it would be a relief to shipowners, and afford greatly increased facilities for the transaction of business.

"The remission of the stamp duties on marine insurance, which are almost exclusively levied on English, and not on foreign, policies of insurance, would be a great boon to the shipping interest. If the state of the public revenue should not admit of a total abolition, your committee earnestly recommend a revision of the present scale of stamp duties on marine insurance, with a view of effecting a large reduction of the present rates. Whenever similar reductions have been carried out the revenue has almost invariably increased, and your committee cannot doubt that a similar result would follow if the experiment made in 1844 were repeated. The shipowner claims relief from this special burthen to aid him in competing successfully with the foreigner, who in some maritime states is altogether exempted from the tax; while in the United States of America the charge is only 'one dollar, or a dollar and a quarter, on each policy, whatever the amount may be.'

"In conclusion, your committee, though they have not felt it necessary to offer an opinion upon matters purely of detail, have, they trust, in an impartial spirit, given to all the important questions referred to them their most attentive consideration; and, in closing their Report, they desire to express an earnest hope that your Honourable House will support the views of your committee, so that their recommendations may receive, at the earliest period, that attention from her Majesty's Government which their importance demands."

#### ORDER IN COUNCIL UNDER THE FOREIGN JURISDICTION ACT.

THE GAZETTE of the 9th October, 1860, contains an important Order in Council for carrying into effect the provisions of the 6 & 7 Vict. c. 94, in the dominions of the Ottoman Porte. Of this we propose to give the most remarkable parts.

"At the Court at Balmoral, the 27th August, 1860, present, the Queen's most excellent Majesty in Council.

"Whereas, by the act of the session of Parliament of the 6 & 7 Vict. c. 94, intituled 'An Act to remove Doubts as to the Exercise of Power and Jurisdiction by her Majesty within divers Countries and Places out of her Majesty's Dominions, and to render the same more effectual,' hereinafter called 'the Foreign Jurisdiction Act,' it was enacted, amongst other things, that it was and should be lawful for her Majesty to hold, exercise, and enjoy any power or jurisdiction which her Majesty then had, or might at any time thereafter have, within any country or place out of her Majesty's

dominions, in the same and as ample a manner as if her Majesty had acquired such power or jurisdiction by the cession or conquest of territory:

"And whereas her Majesty has had, and now has, power and jurisdiction in the dominions of the Sublime Ottoman Porte, &c.

\* \* \* \* \*

**"II.—GENERAL PROVISIONS AS TO HER MAJESTY'S JURISDICTION IN THE DOMINIONS OF THE SUBLIME OTTOMAN PORTE.**

"4. All her Majesty's jurisdiction exercisable in the dominions of the Sublime Ottoman Porte for the judicial hearing and determination of suits or matters in difference between British subjects, or between British subjects and subjects of the Sublime Ottoman Porte, or between British subjects and subjects or citizens of any other State, or for the administration or control of the property or persons of British subjects, or for the repression or punishment of crimes or offences committed by British subjects, or for the maintenance of order among British subjects, or for any purpose connected therewith respectively, shall be exercised under and according to the provisions of the present Order, and not otherwise.

"5. Subject to the other provisions of the present Order, the civil and criminal jurisdiction aforesaid may and shall, as far as circumstances will admit, be exercised upon the principles of and in conformity with the common law, the rules of equity, the statute law, and other law for the time being in force in and for England, and with all the powers vested in and pursuant to the course of procedure and practice observed by and before courts of justice and justices of the peace in England, according to their respective jurisdictions and authorities.

"6. Except as to offences against the capitulations, articles of peace, and treaties between her Majesty and the Sublime Ottoman Porte, or against any rules and regulations for the observance thereof, or the maintenance of order among British subjects in the dominions of the Sublime Ottoman Porte, made by or under the authority of her Majesty, or against any of the provisions of the present Order, or any rule made under it, and except as to offences expressly made such by the present Order, or any other Order for the time being in force, no act done by a British subject in the dominions of the Sublime Ottoman Porte, or on board a British vessel within the same dominions, which would not, by a court of justice having criminal jurisdiction in England, be deemed to be a crime or offence rendering the person doing the act amenable to punishment in England, shall, in the exercise of criminal jurisdiction under the present Order, be deemed to be a crime or offence rendering the person doing the act amenable to punishment.

**"III.—CONSTITUTION OF HER MAJESTY'S CONSULAR COURTS.**

**"(1). *The Supreme Consular Court at Constantinople.***

"7. There shall be a court styled 'Her Britannic Majesty's Supreme Consular Court for the Dominions of the Sublime Ottoman Porte.'

"8. The Supreme Consular Court shall hold its ordinary sittings at Constantinople, but may, in case of emergency, sit at any other place within the district of the consulate-general of Constantinople, and may at any time hold its ordinary sittings at any such place within the dominions of the Sublime Ottoman Porte as one of her Majesty's Principal Secretaries of State may approve.

"9. There shall be one judge of the court. He shall be appointed by her Majesty by warrant under her royal sign-manual.

\* \* \* \* \*

"10. There shall be attached to the court—

"(1). One legal vice-consul cancellier;

"(2). One law secretary:

"(3). So many officers and clerks as one of her Majesty's Principal Secretaries of State may from time to time think fit.

"11. The legal vice-consul cancellier and the law secretary shall be appointed by her Majesty.

"They shall respectively hold, by special commission from her Majesty, the appointment of vice-consul; but the legal vice-consul cancellier shall always have rank and precedence above the law secretary.

"The legal vice-consul cancellier shall act as registrar of the court.

"The law secretary shall discharge such duties in connexion with the conduct of criminal prosecutions as the judge may from time to time direct.

"The legal vice-consul cancellier shall hear and determine in a summary way such criminal charges as may under the present Order be properly so heard and determined, and as may be specially referred to him by the judge.

"The law secretary shall hear and determine in a summary way such criminal charges as may under the present Order be properly so heard and determined, and as the judge may from time to time think necessary, for the dispatch of urgent business, to refer specially to him.

"Where a suit or proceeding of a civil nature, originally instituted in the Supreme Consular Court, relates to money, goods, or other property, or any civil right or other matter at issue, of a less amount or value than 100*l.* sterling, or is instituted for the recovery of damages of a less amount than 100*l.* sterling, it shall be lawful for the judge to refer such suit or proceeding specially to the legal vice-consul cancellier to be heard and determined by him; or, if it shall appear to the judge necessary for the dispatch of urgent business so to do, to refer any such suit or proceeding specially to the law secretary to be heard and determined by him; and the legal vice-consul cancellier or law secretary (as the case may be) shall hear and determine the same accordingly; but in all such cases an appeal shall lie as of course to the judge.

**"(2). *The Consular Courts in the Provinces.***

"12. Each of her Majesty's consuls-general, consuls, and vice-consuls resident in the dominions of the Sublime Ottoman Porte, (with the exception of her Majesty's consul-general at Constantinople, and with such other exceptions as one of her Majesty's Principal Secretaries of State may at any time think fit to make), for and in his own consular district, shall hold and form a court styled 'Her Britannic Majesty's Consular Court at [Smyrna, or as the case may be].'

"Provided always, that no vice-consul shall be competent to hold a consular court unless he holds a commission as vice-consul from her Majesty; but any person acting temporarily, with the approval of one of her Majesty's Principal Secretaries of State, as consul-general, consul, or vice-consul, shall be competent to hold a consular court.

**"IV.—JURISDICTION AND POWERS OF THE CONSULAR COURTS.**

**"(1). *In General.***

"13. All her Majesty's jurisdiction, civil and criminal, exercisable in the dominions of the Sublime Ottoman Porte, shall, for and within the district of the consulate-general of Constantinople, be vested exclusively in the Supreme Consular Court, as its ordinary original jurisdiction.

"14. All her Majesty's jurisdiction, civil and criminal,

nal, exercisable in the dominions of the Sublime Ottoman Porte beyond the district of the consulate-general of Constantinople, and not under the present Order vested exclusively in the Supreme Consular Court, shall, to the extent and in the manner provided by the present Order, be vested in the several provincial consular courts, each for and within its own district.

"15. Where a suit or proceeding of a civil nature, instituted in a provincial consular court, does not relate to money, goods, or other property of the amount or value of 300*l.* sterling or upwards, or does not relate to or involve, directly or indirectly, a question respecting any civil right or other matter at issue of the amount or value of 300*l.* sterling or upwards, or is not brought for the recovery of damages of the amount of 300*l.* sterling or upwards, the Court shall have jurisdiction to hear and determine the case without assessors.

"In all cases other than those hereinbefore described the Court shall hear and determine the case with assessors.

"16. The Supreme Consular Court shall have, in all matters civil and criminal, a concurrent jurisdiction with the several provincial consular courts, such jurisdiction to be exercised subject and according to the other provisions of the present Order.

"17. The judge of the Supreme Consular Court may, as and when he thinks fit, visit, or appoint the legal vice-consul cancellier or the law secretary of the Supreme Consular Court to visit, in a judicial or magisterial capacity, any provincial consular court, and there inquire of, hear, and determine any case, civil or criminal, pending in that court, or arising within its jurisdiction.

"18. A provincial consular court may of its own motion, or on the application of any person concerned, report to the Supreme Consular Court the pendency of any case, civil or criminal, which appears to the provincial consular court fit to be heard and determined by the Supreme Consular Court. The Supreme Consular Court shall thereupon direct in what mode and where the case shall be heard and determined, and the same may and shall be so heard and determined accordingly.

"19. The supreme and every other consular court shall, in the exercise of every part of its respective jurisdiction, be a court of record.

"20. Each provincial consular court may and shall execute any writ or order issuing from the Supreme Consular Court, and take security from any person named in any writ or order for his appearance personally or by attorney; and may, in default of such security being given, or when specially ordered by the Supreme Consular Court so to do, send the person named to Constantinople on board one of her Majesty's vessels of war, or, if there shall be no such vessel available for the purpose, then on board any British or other fit vessel.

"The order of the Supreme Consular Court shall be sufficient authority to the commander or master of any such vessel of war or other vessel to receive and detain such person, and carry him to and deliver him up at Constantinople, in obedience to and in pursuance of such order.

"21. The supreme and every other consular court shall be auxiliary to one another in all particulars relative to the administration of justice, civil or criminal.

(To be continued).

**COMMISSIONER TO ADMINISTER OATHS IN COMMON LAW.**—Henry Druit Phillips, Gent., of No. 11, Abchurch-lane, in the city of London, has been appointed a London Commissioner for administering oaths in common law in the Courts of Queen's Bench, Common Pleas, and Exchequer.

## MEETINGS.

**William Cooper**, Cheriton, near Alresford, Southampton, builder, Nov. 5 at half-past 2, London, last ex.—**Jos. Chatwin**, Birmingham, gas-fitting manufacturer, Oct. 26 at 11, Birmingham, aud. ac.; Nov. 8 at 11, div.—**Patrick Hare**, Liverpool, tallowchandler, Oct. 29 at 11, Liverpool, aud. ac.—**Robert Morrow, John Morrow**, and **Clarkson Garbutt**, Liverpool, commission agents, Oct. 29 at 11, Liverpool, aud. ac.—**John Austen**, Pierrepont-row, Islington, Middlesex, leather seller, Nov. 8 at half-past 2, London, div.—**James Henry Watts** and **Joseph Watts**, Richard-street, Woolwich, Kent, ironmongers, Nov. 7 at half-past 11, London, div.—**John Arnold Hurst**, Ludgate-street, City, mantle manufacturer, Nov. 8 at 1, London, div.—**John F. Eyles**, Brighton, Sussex, printer, Nov. 8 at 1, London, div.—**Alfred F. Whitburn**, Enfield, Middlesex, brewer, Nov. 8 at 12, London, div.—**Stephen C. Galatti**, Liverpool, insurance broker, Nov. 7 at 11, Liverpool, div.—**George Seaton**, Kingston-upon-Hull, currier, Nov. 14 at 12, Kingston-upon-Hull, div.—**George Allen**, Bardney, Lincolnshire, grocer, Nov. 14 at 12, Kingston-upon-Hull, div.

## CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

**Henry Beeson**, Bushey Heath, Hertfordshire, builder, Nov. 8 at half-past 12, London.—**Wm. Cook**, King-street, Regent-street, Middlesex, coachbuilder, Nov. 8 at 11, London.—**C. Cross**, Gutter-lane, City, silk warehouseman, Nov. 7 at half-past 12, London.—**John Hughes**, Basinghall-street, City, and Gresham-terrace, Queen's-road, Dalston, Middlesex, woollen warehouseman, Nov. 7 at 1, London.—**Alexander D. Bell** and **Emil Brasser**, Goldsmith-street, City, silk fringe and trimming manufacturers, Nov. 8 at 11, London.—**M. L. J. Lavater**, Strand, Middlesex, India rubber manufacturer, Nov. 6 at half-past 2, London.—**Wm. Bayley** the younger and **Richard B. Newson**, White Lion-street, Pentonville, gold beaters, and Rosemary Branch-wharf, Hoxton, Middlesex, woodcutters, Nov. 6 at 2, London.—**Wm. Jones**, Aldershot, Hampshire, tailor, Nov. 6 at half-past 12, London.—**Ephraim Jobbins**, Gloucester, currier, Nov. 12 at 11, Bristol.—**George Hasluck**, Tetbury, Gloucestershire, ironmonger, Nov. 12 at 11, Bristol.—**Thomas Law Holdich**, Hincley, Leicestershire, ironmonger, Nov. 16 at 11, Birmingham.—**Wm. Phillips** the younger, Birmingham, pork butcher, Nov. 16 at 11, Birmingham.—**James Season**, Leeds, Yorkshire, cabinet maker, Nov. 19 at 11, Leeds.

To be granted, unless an Appeal be duly entered.

**Joseph Lawson**, Fenchurch-street, City, shipbroker.—**T. L. Ingram**, Moreton-place, Pimlico, Middlesex, merchant.—**Wm. Smith**, South Shields, Durham, shipowner.

## SCOTCH SEQUESTRATIONS.

**James M'Pherson**, Aberdeen, innkeeper.—**Neil Brown**, Glasgow, wine merchant.—**Charles Grubb**, Ladeddie Quarries, Fifeshire, farmer.—**Ernest Chapuy**, Kingston, near Glasgow, general merchant.—**J. Anderson**, Partick, builder.—**Wm. Murdoch**, Applecross, Ross-shire, shepherd.

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# The Jurist

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OCTOBER 27, 1860.

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P P



## GAZETTES.—FRIDAY, Oct. 19.

## BANKRUPTS.

- WALTER BAYNHAM, Hounslow, Middlesex, grocer, Oct. 30 at 11, and Nov. 30 at half-past 11, London: Off. Ass. Bell; Sol. Brutton, 27, Basinghall-street.—Pet. f. Oct. 17.
- CHARLES DWELLEY, Clarendon-terrace, Bow-road, Middlesex, wheelwright, Oct. 27 and Nov. 30 at 11, London: Off. Ass. Johnson; Sol. Wood, 4, Coleman-street-buildings, Moorgate-street.—Pet. f. Oct. 16.
- EDWARD HOILE, St. Paul's-road, Bow-common, Middlesex, manufacturing chemist, Nov. 1 at half-past 1, and Nov. 30 at half-past 12, London: Off. Ass. Cannan; Sols. Lepard & Gammon, 9, Cloak-lane, London.—Pet. f. Oct. 18.
- WILLIAM HENRY HARRIS, Sidney-place, Commercial-road East, Middlesex, mantle manufacturer, Nov. 1 at 11, and Nov. 30 at half-past 1, London: Off. Ass. Whitmore; Sols. Lawrence & Co., 12, Bread-street, Cheapside.—Pet. f. Oct. 18.
- PETER DOYLE, Wapping-wall, Middlesex, sailmaker, Nov. 1 and Dec. 3 at 1, London: Off. Ass. Pennell; Sol. Gregson, 8, Angel-court, Throgmorton-street, London.—Pet. f. Oct. 18.
- MANWARING WILSON BOLTON, late of London-street, Fenchurch-street, City, and now of Waterloo-road, Surrey, commission agent, Oct. 31 at half-past 12, and Dec. 3 at half-past 1, London: Off. Ass. Pennell; Sols. Harrison & Lewis, 6, Old Jewry, London.—Pet. f. Oct. 18.
- JAMES JOSIAH STEPHENSON, (known as JAMES STEPHENSON), Crawford-street, Bryanstone-square, St. Marylebone, Middlesex, cabinet maker, Nov. 1 at half-past 12, and Nov. 28 at half-past 1, London: Off. Ass. Stansfeld; Sol. Treherne, 17, Gresham-street, London.—Pet. f. Oct. 17.
- JACOB ROGERS, Shrewley, near Hatton, Warwickshire, builder, Oct. 31 and Nov. 26 at 11, Birmingham: Off. Ass. Whitmore; Sols. Lane, Stratford; Hodgeon & Allen, Birmingham.—Pet. d. Oct. 17.
- ROBERT WHITE, JAMES WHITE, and WILLIAM WHITE, Nottingham, lace manufacturers, (trading under the style of White Brothers), Nov. 6 and Dec. 4 at half-past 11, Nottingham: Off. Ass. Harris; Sols. Preston, Nottingham; Wilkinson & Co., Nicholas-lane, Lombard-street, London.—Pet. d. Sept. 22.
- WILLIAM GILYARD and SAMUEL BROWN, Bradford, Yorkshire, machine wool combers, (trading under the style or firm of Samuel Brown & Co.), Nov. 2 and 30 at 11, Leeds: Off. Ass. Young; Sols. Wood, Bradford; Cariss & Cudworth, Leeds.—Pet. d. and f. Oct. 11.
- THOMAS MYOTT, Manchester, grocer, Nov. 8 and 29 at 12, Manchester: Off. Ass. Pott; Sol. Sutton, Manchester.—Pet. f. Oct. 12.
- JOHN LIDDELL, Dyke Nook and Berry Edge, Durham, butcher, Oct. 26 at 1, and Nov. 28 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Joel, Newcastle-upon-Tyne; Hoyle, 102, Leadenhall-street, London.—Pet. f. Oct. 16.
- JOHN THOMPSON, Barnard Castle, Durham, currier, Oct. 26 at half-past 11, and Nov. 28 at 1, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Cariss & Cudworth, Leeds; Griffith & Crighton, Newcastle-upon-Tyne.—Pet. f. Sept. 24.

## MEETINGS.

Frederick C. Perry, Walsall and Bliston, Staffordshire, and Stockport, Cheshire, ironmaster, Nov. 12 at 11, Birmingham, pr. d.—Elijah Pinkess, Liverpool, oilman, Oct. 29 at 11, Liverpool, pr. d.—James Hall, Oxford, builder, Oct. 31 at 12, London, last ex.—Edwin Guest, Blackfriars-road, Surrey, ironmonger, Nov. 1 at half-past 11, London, last ex.—John Moore, Pudsey, (and not Sudsey, as previously advertised), Yorkshire, cloth manufacturer, Nov. 2 at 11, Leeds, last ex.—Henry W. Larard, Hull, Yorkshire, jeweller, Nov. 7 at 12, Kingston-upon-Hull, last ex.—James H. Watts and Joseph Watts, Woolwich, Kent, ironmongers, Oct. 31 at 2, London, and ac.—Wm. Perrin and Peter Perrin, Wellingborough, Northamptonshire, boot and shoe manufacturers, Oct. 31 at half-past 11, London, and ac.—John Fred. Eyles, Brighton, Sussex, printer, publisher, and stationer, Nov. 5 at 11, London, and ac.—Thomas Porter, Beauvoir-place, Kingsland, Middlesex, chair maker, Nov. 5 at 11, London, and ac.—Alfred Francis Whitburn, Enfield, Middlesex,

brewer, Nov. 5 at 11, London, and ac.—George Vickery Wakefield and Robert Birt, Swansea, Glamorganshire, hotel keepers, Nov. 8 at 11, Bristol, and ac.—Jesse Cooper, Newport, Monmouthshire, outfitter, Nov. 15 at 11, Bristol, and ac.—Charles Allen, Risca, Monmouthshire, grocer, Nov. 8 at 11, Bristol, and ac.; Nov. 15 at 11, div.—William Monk, Padiham, Lancashire, manufacturer, Nov. 23 at 12, Manchester, and ac.—Samuel Routledge, Huddersfield, Yorkshire, dyer, Nov. 30 at 11, Leeds, and ac. and div.—Joseph Balmforth Booth, Elland, Yorkshire, draper, Nov. 13 at 11, Leeds, and ac. and div.—Charles Dawson, Wisbeach St. Peter, Cambridgeshire, dealer in china, Nov. 8 at half-past 12, London, div.—Henry Quincey Andrews, Strand, Middlesex, American drug merchant, Nov. 13 at 11, London, div.—Cleeve W. Hooper and Henry Parkinson, Seething-lane, City, leather factors, Nov. 10 at 11, London, div.—James Eastham and Joseph Elliott Lawledge, Little Carter-lane, City, and Phippe-bridge, Mitcham, Surrey, calico printers, Nov. 9 at half-past 1, London, div.—Thomas Henry Harper, Abingdon, Berkshire, confectioner, Nov. 9 at half-past 12, London, div.—William Bound the elder, Poole and Corfe Mullen, Dorsetshire, farmer, Nov. 9 at 1, London, div.—Gustave Winter, Milk-street, City, warehouseman, Nov. 9 at half-past 1, London, div.—William Hills, Sandgate, Kent, draper, Nov. 9 at half-past 11, London, div.—Benjamin Clayton, Ketton, Rutlandshire, stone merchant, Nov. 13 at half-past 12, London, div.—Lewis Levy, Gravel-lane, City, merchant, Nov. 13 at 12, London, div.—William Hughes, Leicester, grocer, Nov. 22 at 11, Nottingham, and ac. and div.—Thomas Miles and Robert Miles, Derby, grocers, Nov. 22 at 11, Nottingham, and ac. and div.—Daniel Swift, Deeping St. James, Lincolnshire, butcher, Nov. 22 at 11, Nottingham, div.—David Widdowson, Nottingham, lace manufacturer, Nov. 22 at 11, Nottingham, div.—John Hughes and Thomas Dyne Steel, Newport, Monmouthshire, engineers, Nov. 15 at 11, Bristol, first and fin. div.—David William James, Llanwornno, Glamorganshire, coal merchant, Nov. 15 at 11, Bristol, fin. div.—John Green, Birkenhead, Cheshire, newspaper proprietor, Nov. 12 at 11, Liverpool, div.—Robert Morrow, John Morrow, and Clarkson Garbutt, Liverpool, merchants, Nov. 12 at 11, Liverpool, div.—Patrick Hare, Liverpool, tallow chandler, Nov. 12 at 11, Liverpool, div.—William Heddin, Leeds, Yorkshire, Arthur Oates Heddin, Parliament-street, Westminster, Middlesex, and John Browne the elder, Leeds, merchants, Nov. 9 at 11, Leeds, div.

## CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

Henry Foot, Fort-street, Spitalfields, Middlesex, and Sudbury, Suffolk, silk manufacturer, Nov. 12 at 12, London.—George Cuckoo, Woodbridge, Suffolk, grocer, Nov. 12 at 1, London.—Edward Russell, Long-lane, Bermondsey, Surrey, leather merchant, Nov. 13 at 1, London.—Samuel Solomon Maurice, Great St. Helens, Bishopegate-street, London, and Odessa, merchant, Nov. 13 at half-past 2, London.—George Vernon Jackson, Chichester-place, Battle-bridge, Middlesex, bookseller, Nov. 13 at half-past 1, London.—Robert Durrant and George Brock, Cosleng, Norwich, tallow chandlers, Nov. 9 at half-past 11, London.—Abraham Buhrer, Skinner-street, Snow-hill, City, importer of foreign glass, Nov. 10 at 12, London.—William Hills, Sandgate, Kent, draper, Nov. 9 at half-past 11, London.—Thomas Manning, Aldershot, Southampton, hotel keeper, Nov. 10 at 12, London.—David Tearle, Houghton Regis and Luton, Bedfordshire, straw plait dealer, Nov. 9 at 2, London.—John Tombs, Church-street, Westminster, Middlesex, builder, Nov. 9 at 2, London.—James M'Master and Samuel Haines, Abergavenny, Monmouthshire, drapers, Nov. 13 at 11, Bristol.—Wm. Monk, Padiham, Lancashire, manufacturer, Nov. 23 at 12, Manchester.—Thomas Miles and Robert Miles, Derby, grocers, Nov. 13 at half-past 11, Nottingham.—John Cotton, Smethwick, Staffordshire, shoemaker, Nov. 14 at 11, Birmingham.—John Ebenezer Neal, Leicester, glove manufacturer, Nov. 20 at half-past 11, Nottingham.—Fred. T. Brasington, Burslem, Staffordshire, shoemaker, Nov. 12 at 11, Birmingham.—George Stevenson, Keele, Staffordshire, shoe manufacturer, Nov. 14 at 11, Birmingham.—Robert Nuttall



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## THE JURIST.

LONDON, OCTOBER 27, 1860.

THE case of *Swinfen v. Lord Chelmsford* (reported in our present number) involves questions of immense importance affecting the relation between counsel and their clients. There an action was brought against Lord Chelmsford, on the ground that while Sir Frederick Thesiger he had been retained by the plaintiff, Mrs. Patience Swinfen, to act as her counsel on an issue directed by the Court of Chancery, and had, without her authority, and contrary to her instructions, entered into a compromise with the opposite side for putting an end to the dispute between the parties. The jury having found a verdict for the defendant, a rule was obtained for a new trial, and the case was very ably argued in Michaelmas and Hilary Terms, when a variety of authorities, both from our own law and those of other countries, were referred to, although it was admitted on all hands that no decision in point could be found. The Court took time to consider, and near the end of Trinity Term an elaborate judgment was given by the Lord Chief Baron in the name of the Court, discharging the rule. In the course of that judgment the following principles were laid down.

The whole Court, consisting of Pollock, C. B., Bramwell and Channell, BB., and the late Mr. Baron Watson, held—first, that an advocate who accepts a brief in the usual way does not enter into any contract or promise, express or implied, but takes upon himself an office or duty, in the proper discharge of which not merely the client, but the court in which the duty is to be performed, and the public at large, have an interest; and, secondly, that counsel has complete authority over the suit, the mode of conducting it, and all that is incident to it, but not over matters that are collateral to it.

Pollock, C. B., and the late Mr. Baron Watson, went farther, holding, that if a barrister acts with perfect good faith, and with a single view to the interests of his client, he is not responsible for any mistake or indiscretion or error of judgment of any sort; and if he imagines he has authority to make a compromise when he really has not, this is a mistake either in law or fact; or if, in spite of instructions to the contrary, he enters into a compromise—believing that it is the best course to take, and that the interests of his client require it—this is but an indiscretion, or an error in judgment if done honestly; and that for neither the one nor the other can any action be maintained against him.

Two other points worthy of attention were decided in *Swinfen v. Lord Chelmsford*.

First, that although, where counsel is retained in the usual manner, the law is as above stated, yet he may be liable to his client on an express agreement, or if he acts towards him with fraud, malice, or treachery.

Secondly, that where a declaration discloses a state of facts upon which an action may be maintained, although there be neither malice nor fraud, the plaintiff is not bound to prove either, *though both be alleged*, and may recover upon the liability which the facts disclose, *though fraud and malice be disproved*.

In the argument of *Swinfen v. Lord Chelmsford* much reliance was placed by the plaintiff's counsel on the civil law on this subject, in which, as they contended, counsel is looked on in the light of a mandatory—i. e. a person who undertakes to do something for another without reward; in which case it is a well-settled rule, both of the civil law and the common law, that although the mandatory is unpaid, he is nevertheless liable for gross negligence. A gentleman of some standing and practice at the bar suggests to us a view of the matter which shews that this analogy might mislead. He suggests that the pleader in the civil law

stands on a different footing from the same person in the common law. The former is said to be the "advocate" of the party, while the latter is said to be his "counsel," or, as it was formerly expressed, "of counsel with him." The first of these expressions seems to indicate a person employed to uphold some particular view dictated to him by the client, while the latter implies that the pleader is entrusted, not only to speak for his client, but also to think for his interests; in short, that in the common law there is a solidarity between the pleader and client which did not exist in the civil law, and consequently that the former has rights in the way of compromising the suit much more extensive than the latter.

The case of *Swinfen v. Lord Chelmsford* will, we believe, be brought before a higher tribunal, where it is to be hoped some decision will be come to that will settle for the future the vexed questions involved in it.

### Court Papers.

EQUITY SITTINGS, MICHAELMAS TERM,  
1880.

#### Court of Chancery.

*Before the LORD CHANCELLOR.*

*At Westminster.*

Friday..... Nov. 2 { Appeal Motions, Petitions, and Appeals.

*At Lincoln's Inn.*

Saturday .....	3	} Appeals.
Monday.....	5	
Tuesday.....	6	
Wednesday .....	7	
Thursday .....	8	Appeal Motions and Appeals.
Friday .....	9	} Appeals.
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*Before the LORDS JUSTICES.*

*At Westminster.*

Friday..... Nov. 2 Appeal Motions.

*At Lincoln's Inn.*

Saturday .....	3	Appeal Motions and Appeals.
Monday.....	5	} Appeals.
Tuesday.....	6	
Wednesday .....	7	
Thursday .....	8	
Friday .....	9	Appeal Motions and Appeals.
		Petitions in Lunacy and Bankruptcy,
		Appeal Petitions, and Appeals.
Saturday .....	10	} Appeals.
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Wednesday .....	14	
Thursday .....	15	Appeal Motions and Appeals.
Friday .....	16	Petitions in Lunacy and Bankruptcy,
		Appeal Petitions, and Appeals.

Saturday .....	17	} Appeals.	
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Thursday .....	22	} Petitions in Lunacy and Bankruptcy,	
Friday .....	23		
			Appeal Petitions, and Appeals.
Saturday .....	24		
Monday.....	26	Appeal Motions and Appeals.	

*Notice.*—The days (if any) on which the Lords Justices shall be engaged in the full Court, or at the Judicial Committee of the Privy Council, are excepted.

*Before the MASTER OF THE ROLLS.*

*At Westminster.*

Friday..... Nov. 2 Motions.

*At Chancery-Lane.*

Saturday .....	3	} Petitions, Short Causes, Adjourned Summons, and General Paper.	
Monday.....	5		
Tuesday.....	6		
Wednesday .....	7		
Thursday .....	8	} General Paper.	
Friday .....	9		
			Motions.
Saturday .....	10		
Monday.....	12	} Petitions, Short Causes, Adjourned Summons, and General Paper.	
Tuesday.....	13		
Wednesday .....	14		
Thursday .....	15		
Friday .....	16	} General Paper.	
Saturday .....	17		
Monday.....	19		
Tuesday.....	20		
Wednesday .....	21	} General Paper.	
Thursday .....	22		
Friday .....	23		
Saturday .....	24		
Monday.....	26	} Petitions, Short Causes, Adjourned Summons, and General Paper.	
			Motions.

Unopposed Petitions must be presented, and copies left with the Secretary, on or before the Thursday preceding the Saturday on which it is intended they should be heard.

*Before the Vice-Chancellor Sir RICHARD T. KINDERSLEY.*

*At Westminster.*

Friday..... Nov. 2 Motions.

*At Lincoln's Inn.*

Saturday .....	3	} Petitions, Short Causes, Adjourned Summons, and General Paper.
Monday.....	5	
Tuesday.....	6	
Wednesday .....	7	
Thursday .....	8	} Motions and General Paper.
Friday .....	9	
Saturday .....	10	
Monday.....	12	
Tuesday.....	13	} General Paper.
Wednesday .....	14	
Thursday .....	15	
Friday .....	16	
Saturday .....	17	} Short Causes, Adjourned Summons, and General Paper.
Monday.....	19	
Tuesday.....	20	
Wednesday .....	21	
Thursday .....	22	} General Paper.
Friday .....	23	
Saturday .....	24	
Monday.....	26	
		Petitions.
		Short Causes, Adjourned Summons, and General Paper.
		Motions and General Paper.

*Before the Vice-Chancellor Sir JOHN STUART.**At Westminster.*

Friday..... Nov. 2 Motions.

*At Lincoln's Inn.*

Saturday .....	3	Petitions, Short Causes, and General Paper.
Monday.....	5	
Tuesday.....	6	General Paper.
Wednesday .....	7	
Thursday .....	8	Motions and General Paper.
Friday .....	9	Petitions and General Paper.
Saturday .....	10	Short Causes and General Paper.
Monday.....	12	
Tuesday.....	13	General Paper.
Wednesday .....	14	
Thursday .....	15	Motions and General Paper.
Friday .....	16	Petitions and General Paper.
Saturday .....	17	Short Causes and General Paper.
Monday.....	19	
Tuesday.....	20	General Paper.
Wednesday .....	21	
Thursday .....	22	
Friday .....	23	Petitions and General Paper.
Saturday .....	24	Short Causes and General Paper.
Monday.....	26	Motions.

*Before the Vice-Chancellor Sir W. P. WOOD.**At Westminster.*

Friday..... Nov. 2 Motions.

*At Lincoln's Inn.*

Saturday .....	3	Petitions, Short Causes, and General Paper.
Monday.....	5	
Tuesday.....	6	General Paper.
Wednesday .....	7	
Thursday .....	8	Motions and General Paper.
Friday .....	9	General Paper.
Saturday .....	10	Petitions, Short Causes, and General Paper.
Monday.....	12	
Tuesday.....	13	General Paper.
Wednesday .....	14	
Thursday .....	15	Motions and General Paper.
Friday .....	16	General Paper.
Saturday .....	17	Petitions, Short Causes, and General Paper.
Monday.....	19	
Tuesday.....	20	General Paper.
Wednesday .....	21	
Thursday .....	22	
Friday .....	23	
Saturday .....	24	Petitions, Short Causes, and General Paper.
Monday.....	26	Motions and General Paper.

## COMMON-LAW CAUSE LISTS, MICHAELMAS TERM, 1860.

## Court of Queen's Bench.

## NEW TRIALS.

## FOR JUDGMENT.

Durham—Ashworth v. Stanwix &amp; an.

## FOR ARGUMENT.

*Moved Mich. Term, 1858.*

Cornwall—Lyle v. Richards (Stands over till decision in Reynolds v. Buckley)

*Moved Mich. Term, 1859.*

Pembroke—Goode v. South Wales Railway Co.

*Moved Hilary Term, 1860.*Lond.—Stimpson v. Young  
*Tried during Term.*

Midd.—Joyce v. Joyce

*Moved Easter Term, 1860.*

Midd.—Bickford v. Bunning (Forth heard, stands over)

Lond.—Matthews v. Gibbs

" Thompson v. North-eastern Railw. Co.

" Barry v. Shipley

" Kopetsky v. Radhall

Norfolk—Wright v. Wilkin  
Oxford—Cole v. Denny  
Gloster—Evison v. Oxford, &c. Railway Co.  
" Dorset v. Muff  
Carmarth.—Thomas v. Rogers  
" Davies v. Bowen  
Glamorg.—Evans v. Thomas  
Chester—Adhead v. Needham  
" Hall v. Crawford  
*Tried during Term.*  
Midd.—Cohen and Wife v. De Maillepre

Midd.—Noble v. Le Gros  
" Payne v. Revans  
" Romillie v. Halahan  
" Lloyd v. Shaw  
" Stevens v. Taylor  
Lond.—Cook v. Wright.  
*Moved Trinity Term, 1860.*  
Midd.—Dixon and Wife v. Bush  
" St. Albans and Wife v. London General Omnibus Co. (Limited)  
" Wood v. Smith  
Lond.—Mitchell v. Hall.

## SPECIAL PAPER.

Those marked thus \* are Special Cases, and those † De-murrers.

## FOR JUDGMENT.

†Castrique v. Behrens &amp; ora.

## FOR ARGUMENT.

†Shrubb v. Eyre (To come on with special case)  
†Schlumberger v. Lister  
Giles v. Scott (Appeal from County Court)  
†Bosanquet v. Heath  
†Heath v. Bosanquet  
†Jackson v. Saxon  
\*Saunders v. Eppe  
\*Sheldr v. Maritime Passengers Assurance Co.  
\*Hungerford Market Co. v. City Steam-boat Co., Limit.  
†Hewson v. Xenos  
\*Molesworth v. Quayle  
\*Custance v. Bester  
†Somerville v. Jenkins  
†Clapham v. Langton  
†Sommerville v. Mirehouse  
†Ferguson v. Humfrey & an.  
†Benkiran & an. v. Great Central Gas Consumers Co.  
†Sturgeon & an. v. Sams

\*Birkenhead Improvement Commissioners v. Hind  
Harris v. May (Appeal from County Court)  
\*Crystal Palace Co. v. London, Brighton, and South-coast Railway Co.  
\*Myers v. Sari & ora.  
Hacking v. Lee (Appeal from County Court)  
\*Taff Vale Railway Co. v. Rhymney Railway Co.  
†Crampton v. Walker  
†Crampton v. Walker  
†Crampton v. Walker  
†Barton v. Burham Brick, Pottery, and Cement Co. (Limited)  
\*Cooper v. Billing & ora.  
†Milvain v. Perez & ora.  
Little & an. v. Burge & ora. (Ap. from County Court)  
Israel v. Oastler & an. (Appeal from Sheriff's Court)  
\*Hamer v. Cox  
†Regent's Canal Co. v. Midford  
†Dixon v. Jawars.

## ENLARGED RULES.

*First Day.*

Betts v. Menzies (Enlarged till after judgment on the appeal in the Exchequer Chamber)  
Branwell v. Othen

Ex parte Armstrong, in re Woodcock  
Reg. v. Bodkin  
Reg. v. Mayor, &c. of Beverley  
Reg. v. Audry & ora.  
Reg. v. Jarrall.

## CROWN PAPER, MICHAELMAS TERM, 1860.

Cambridgeshire.. Sparrow v. Churchwardens of Impington.  
Breconshire .... Thomas v. Williams.  
Middlesex .....

Reg. v. Churchwardens of St. Giles-in-the-Fields.  
Hants .....

Inhabitants of Fletton.

Great Yarmouth. Harrod.

Northumberland. Embleton v. Brown.

Derbyshire .... Woolley v. Corbishley.

Same..... Tomlinson v. Same.

Staffordshire.... Hayes v. Stevenson.

Metropolitan Police District.... Doick v. Phelps.

Birmingham.... Till v. Walker.

Brighton ..... Hill v. Thornecroft.

Essex..... Clements v. Smith.

Yorkshire ..... Thewlis v. Kay.

Warwickshire .. Reg. v. Bedford.

Staffordshire ... North Staffordshire Railway Co.

Cambridgeshire . Smith.

Liverpool .....	Steele v. Hamilton.
Yorkshire .....	Walker v. Welburn.
Newcastle .....	Reg. v. Inhabitants of Elswick.
Yorkshire .....	Wrighton.
Metropolitan Po- lice District.....	Loomes v. Bailey.
Kent .....	Reg. v. Lords of Romney Marsh.
Tewkesbury ....	Severn Navigation Commissioners.
Middlesex .....	Inhabitants of St. Marylebone.
Worcestershire..	Ward v. Thomings.
Essex.....	Turnidge v. Shaw.
Newcastle.....	Sibbet v. Ainsley.
Metropolitan Po- lice District.....	Empson v. Metropolitan Board of Works.
Same.....	Peckham v. Same.
Monmouthshire..	Reg. v. Mourilyan.
Derbyshire .....	Sudbury v. Knifton.
Surrey .....	Reg. v. Rendle.
London .....	Blundell.
Northumberland	Dickson v. Doubleday.
Berkshire .....	Reg. v. Great Western Railway Co.
Southampton ...	Estcourt v. Oglander.
Yorkshire .....	Walls v. Scott.
Lancashire .....	Seddon v. Cocker.
Devonshire .....	Batting v. Bristol and Exeter Railway Co.
Essex.....	Bunting v. Dare.
Metropolitan Po- lice District.....	Walsby v. Anley.
Kingston-on-Hull	Reg. v. Overseers of Holbeck.
Buckinghamshire	Gibbons v. Vicar, &c. of Bledlow.
Newport, Hants ..	Everett v. Grapes.
Lincolnshire ....	Bimrose v. Hampton.
Kent .....	Reg. v. Overseers of Blackmanstone.
Yorkshire .....	Gledhill v. Sutcliffe.
Cornwall .....	Luke v. Charles.
Surrey .....	Reg. v. Inhab. of St. George-the-Martyr.
Liverpool .....	M'Ferran v. Scott.
Margate .....	Thorne v. Colson.
Same.....	Same v. St. Clair.
Merionethshire..	Reg. v. Lloyd.
Same .....	Richards.
Same .....	Jones.

## Court of Common Pleas.

### NEW TRIALS.

<i>Easter Term, 1860.</i>	<i>Trinity Term, 1860.</i>
Midd.—Kernan v. Waterer	London.—Bailey v. Sweeting.

### DEMURRER PAPER.

#### SPECIAL ARGUMENTS.

<i>Monday, Nov. 12.</i>	<i>Legg v. Pardoe (Ap.)</i>
Thornton v. Betts (Ap., to stand over till Cuthburton v. Irving is disposed of)	Stears v. South Essex Gas- light Co. (D.)
Jones v. Tapling (Sp. C., S. O.)	Reed v. Couillard (Sp. C.)
Eason v. Fletcher (Case by order)	Maitland v. Graham (D.)
Backhouse v. Churchwardens of Bishopwearmouth (Ap.)	Walters v. Williams (Ap.)
Harris v. Jenns (Ap.)	Roberts v. Preston (Ap.)
Shadwell v. Shadwell (D.)	Vaughton v. Bradshaw (Ap.)
Smith v. Emperor Fire In- surance Society (D.)	<i>Wednesday, Nov. 14.</i>
Todd v. Flight (D.)	Tray v. Hicks (D.)
Lewis v. Mayor of Rochester (Case N. P.)	Browne v. Hotson (Ap.)
Freeman v. Read (Ap.)	Gibb & an. v. Cox (D.)
Smith v. Virtue (D.)	Batchellor v. Lawrence (D.)
	Hibbell v. Egerton (D.)
	Cochrane v. Green (D.)
	<i>Monday, Nov. 19.</i>
	Elcarte v. Hopwood (D.)

### ENLARGED RULES.

<i>Sixth Day.</i>	<i>In re Midland Railway Co.</i>
Baxendale v. Great Western Railway Co.	(Until application to Chan- cery is disposed of)
Rogers v. Taylor (Until after trial)	Cattlin v. Maitland
	Same v. Same

### Fourth Day.

Slipper v. Back  
Erwin v. Same

Walter v. Whitaker (Until  
proceedings in Chancery  
are disposed of).

### CUR. ADV. VULT.

Gye v. Hughes  
Snell v. Bickley

In re Brogden and Llyma  
Valley Railway Co.

The Queen has been pleased to grant unto George Henry Hewitt Oliphant, Esq., of the Inner Temple, Barrister-at-Law, her royal license and authority that he may, in compliance with a proviso contained in the last will and testament of his maternal uncle, Richard Ferguson, take and henceforth use the surname of Ferguson in addition to, and after, that of Oliphant.

and *Nathan Crossley*, Halifax, Yorkshire, machine maker, Nov. 9 at 11, Leeds.—*William Revitt*, Sheffield, Yorkshire, razor manufacturer, Nov. 10 at 10, Sheffield.—*John Lord, Sidney A. Butterworth*, and *Horatio Butterworth*, Shelf, near Halifax, Yorkshire, dyers, Nov. 9 at 11, Leeds.—*H. Mabson*, Ecclesfield, Yorkshire, butcher, Nov. 10 at 10, Sheffield.—*John Heald* the elder and *John Heald* the younger, Eckington, Derbyshire, shoemakers, Nov. 17 at 10, Sheffield.—*Henry Holden*, Doncaster, and *Richard Wainman Holden*, Sheffield, Yorkshire, sheep dealers, Nov. 10 at 10, Sheffield.—*George Gregg*, Sheffield, and *Wath-upon-Dearne*, Yorkshire, currier, Nov. 10 at 10, Sheffield.

To be granted, unless an Appeal be duly entered.

*John Goodall Brett*, Hornchurch, Essex, grocer.—*Henry Potter* and *James Hind*, Sutton, Surrey, builders.—*Thomas Coates*, Bridge-street, Lambeth, Surrey, linendraper.—*Wm. Wilson*, Bristol, linendraper.—*Edward Heathcote*, Rock Ferry, Cheshire, grocer.—*Ann Amelia Leavers*, Liverpool, hosier.—*John Lamb*, Pendleton, Lancashire, grocer.—*G. J. Heald*, Manchester, money scrivener.—*George Frederick James*, Manchester, elastic web manufacturer.—*Peter Williamson* the younger, Salford, Lancashire, grocer.—*Thomas Robinson Mitchell*, Liverpool, apothecary.

### PETITIONS ANNULLED.

*Isaac Sharman*, Spalding, Lincolnshire, upholsterer.—*Marks Leopold Muller*, Aldermanbury Postern, City, watch manufacturer.

### SCOTCH SEQUESTRATIONS.

*Charles Clark*, deceased, Edinburgh, solicitor.—*John Reid*, Aberdeen, coach builder.—*Thomas Buchanan & Son*, Helensburgh, Dumbartonshire, joiners.—*David Christie*, Airdrie, stationer.—*James Macdonald*, Birnam, near Dunkeld, fletcher.—*John Wallace*, Kilmarnock, shawl printer.—*Hugh M'Laughlin*, Glasgow, merchant.—*Robert Ratkin*, Kelso, innkeeper.—*John Thomson*, West Calder, merchant.—*John Chisholm*, Inverness, corn merchant.—*W. Macrae*, Carradale, Kintyre, Argyllshire, innkeeper.

### TUESDAY, Oct. 23.

#### BANKRUPTS.

**HENRY ALFRED TOWN FOWLER, FRANCIS EDMUND TOWN FOWLER, JOSEPH STUBBS, and WILLIAM GOODENOUGH DUNT**, Exeter-street, Strand, Middlesex, newspaper proprietors, Nov. 1 and 30 at half-past 11, London: Off. Ass. Whitmore; Sol. Peckham, 40, Ladgate-street, St. Paul's.—Pet. f. Oct. 19.

**HENRY ROBERT WATTS**, Blackman-street, Borough, Surrey, wine merchant, Nov. 1 and 30 at 2, London: Off. Ass. Whitmore; Sols. Tucker, New City-chambers, Bishopsgate-street; Michael, 7, Old Jewry.—Pet. f. Aug. 6.

**THOMAS POWLES**, Milk-street, Cheapside, London, and Hackney-road, Middlesex, hosier, Nov. 2 at half-past 11, and Nov. 30 at half-past 2, London: Off. Ass. Cannan; Sols. Mason & Co., 7, Gresham-street.—Pet. f. Oct. 23.

**JOHN HULLAH**, St. Martin's Hall, Long-acre, and Langham-street, Portland-place, Middlesex, bookseller, Nov. 2 at 11, and Nov. 30 at 12, London: Off. Ass. Bell; Sols. Ford & Lloyd, 4, Bloomsbury-square.—Pet. f. Oct. 20.

**BENJAMIN HUMPHREY NICHOLLS**, Wilbarston, Northamptonshire, innkeeper, Nov. 2 at half-past 11, and Dec. 6 at 11, London: Off. Ass. Bell; Sols. Wilson, Oundle, Northamptonshire; Taylor & Woodward, 28, Great James-street, Bedford-row, London.—Pet. f. Oct. 12.

**LEWIS JACOBS**, High-street, Whitechapel, Middlesex, shoe manufacturer, Nov. 2 at 11, and Dec. 6 at 2, London: Off. Ass. Johnson; Sol. Chidley, Basinghall-street.—Pet. f. Oct. 22.

**GEORGE GEE**, Beckford-row, Walworth-road, Surrey, mercer, Nov. 2 at 1, and Dec. 8 at 11, London: Off. Ass. Johnson; Sols. Harrison & Lewis, Old Jewry.—Pet. f. Sept. 27.

**BENJAMIN CHESTER RAWLES**, Apollo-buildings, East-street, Walworth, Surrey, shoe manufacturer, Nov. 2 at half-past 12, and Dec. 8 at 12, London: Off. Ass. Johnson; Sol. Charnock, King William-street.—Pet. f. Sept. 19.

**SEPTIMUS FREDERICK MARTYN**, Dowgate-hill, City, wholesale shoe warehouseman, (trading under the style or firm of S. Frederick Martyn & Co.), Nov. 2 and Dec. 6 at 13, London: Off. Ass. Bell; Sols. Gibbs & Tucker, 17, Clement's-lane.—Pet. presented Sept. 27.

**JAMES BROAD**, Drury-lane, Middlesex, coach ironmonger, Nov. 6 and Dec. 4 at 12, London: Off. Ass. Graham; Sol. Linds, 35, Bedford-row.—Pet. f. Oct. 22.

**EDWARD LEWIS**, Coleman-st., City, lithographic printer, (trading under the firm of Edward Lewis & Co.), Nov. 7 at half-past 1, and Dec. 4 at 11, London: Off. Ass. Graham; Sol. Chidley, 10, Basinghall-street.—Pet. f. Oct. 18.

**WILLIAM PENFOLD**, Market-terrace, Caledonian-road, Middlesex, smith, Nov. 5 at half-past 1, and Dec. 3 at half-past 11, London: Off. Ass. Pennell; Sols. Mason & Co., 7, Gresham-street.—Pet. f. Oct. 18.

**ANTHONY HARRIS**, Sevenoaks, Kent, licensed victualler, Nov. 5 at half-past 11, and Dec. 5 at 11, London: Off. Ass. Pennell; Sols. Gibbons, Dartford; J. & J. H. Linklater & Co., 7, Walbrook, London.—Pet. f. Oct. 22.

**JOHN HENRY RAW**, Ware, Hertfordshire, clothier, Nov. 5 at 12, and Dec. 3 at half-past 12, London: Off. Ass. Pennell; Sols. Longmore & Co., Hertford; Mason & Co., 7, Gresham-street, London.—Pet. f. Oct. 16.

**WILLIAM BOYCE**, East Dereham, Norfolk, printer, Nov. 8 at half-past 12, and Dec. 3 at 2, London: Off. Ass. Pennell; Sols. Marcon, Swaffham, Norfolk; Plimsaul, 1, South-square, Gray's-inn, London.—Pet. f. Oct. 19.

**THOMAS BENNETT and EDWARD WILLIAMS**, Tipton, Staffordshire, ironmasters, (trading under the firm of Bennett & Williams), Nov. 8 and 30 at 11, Birmingham: Off. Ass. Whitmore; Sol. Smith, Birmingham.—Pet. d. Oct. 22.

**FULLER COKER**, Worcester, builder, Nov. 2 and 23 at 11, Birmingham: Off. Ass. Kinnear; Sols. Rea, Worcester; E. & H. Wright, Birmingham.—Pet. d. Oct. 13.

**THOMAS PARKES**, Kinner, Staffordshire, spade manufacturer, Nov. 5 and 26 at 11, Birmingham: Off. Ass. Kinnear; Sols. Harward, Stourbridge; James & Knight, Birmingham.—Pet. d. Oct. 18.

**ROBERT WILLAN**, Glossop, Derbyshire, grocer, Nov. 9 and 30 at 12, Manchester: Off. Ass. Hernaman; Sol. Reddish, Manchester.—Pet. f. Oct. 17.

**JAMES M'COLM**, Manchester, common brewer, Nov. 6 and 27 at 12, Manchester: Off. Ass. Fraser; Sols. Thomas & Wharton, Manchester.—Pet. f. Oct. 13.

**JOHN WALKER**, Sunderland, Durham, grocer, Oct. 31 and Dec. 12 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sol. Young, Sunderland.—Pet. f. Oct. 16.

#### MEETINGS.

*Thomas Spicer*, Little Britain, City, oil and colour man, Nov. 3 at 11, London, last ex.—*Joseph Wilson Horn*, Penrith, Cumberland, and Newcastle-upon-Tyne, tobacco manufacturer, Nov. 7 at half-past 12, Newcastle-upon-Tyne, last ex.—*Thomas Henry Harper*, Abingdon, Berkshire, confectioner, Nov. 2 at half-past 12, London, and ac.—*Thos. Lambert* the younger, Stowupland, Stowmarket, Suffolk, steam thrasher, Nov. 3 at 12, London, and ac.—*Arthur Wentworth and Thomas Wentworth*, Bournemouth, Surrey, hide unloosmen, Nov. 5 at 2, London, and ac.—*James Attwood*, Newington, near Sittingbourne, Kent, licensed victualler, Nov. 5 at half-past 1, London, and ac.—*Thomas Ryder*, Leadenhall-street, City, merchant, Nov. 6 at 1, London, and ac.—*John Austen*, Pierrepont-row, Islington, Middlesex, leather seller, Nov. 6 at 11, London, and ac.—*D. Hunter*,

Cornhill, City, merchant, Nov. 6 at 11, London, and ac.—*W. Jones*, Aldershot, Hampshire, tailor, Nov. 6 at half-past 12, London, and ac.—*Julius Roberts*, Grey-street, Poplar, Middlesex, engineer, Nov. 6 at 11, London, and ac.—*A. Holme*, Old Swan-lane, Upper Thames-street, City, shipowner, Nov. 6 at 11, London, and ac.—*Theodore Streiberg*, Wilson-street, Finsbury-square, Middlesex, fancy wood merchant, Nov. 6 at 2, London, and ac.—*Thomas Beesley*, Ranelagh-road, Thames-bank, Picnic, Middlesex, bottle crate maker, Nov. 6 at half-past 1, London, and ac.—*John Dodd*, Hexham, Northumberland, tanner, Nov. 6 at 12, Newcastle-upon-Tyne, and ac.—*Jeremiah Winks*, Newcastle-upon-Tyne, wine merchant, Nov. 6 at half-past 12, Newcastle-upon-Tyne, and ac.—*John Stones and G. Stones*, Smethwick, Staffordshire, iron manufacturers, Nov. 16 at 11, Birmingham, and ac.; Nov. 23 at 11, div.—*Charles Bruce*, Stafford, cabinet maker, Nov. 23 at 11, Birmingham, and ac. and div.—*John Edwards*, Shrewsbury, Shropshire, shoemaker, Nov. 8 at 11, Birmingham, and ac.—*Richard Nash*, Wolverhampton, Staffordshire, innkeeper, Nov. 8 at 11, Birmingham, and ac.—*Thomas Baker*, Kidderminster, Worcestershire, butcher, Nov. 16 at 11, Birmingham, and ac.—*Thomas Gledhill*, Dewsbury Moor, Dewsbury, Yorkshire, clothier, Nov. 20 at 11, Leeds, and ac. and div.—*Freeman Newell*, Huddersfield, Yorkshire, shoe mercer, Nov. 20 at 11, Leeds, and ac. and div.—*George Richardson and Geo. Tomlinson*, Franche, Huddersfield, Yorkshire, cloth merchants, Nov. 20 at 11, Leeds, and ac. and div.—*F. Guyver Franklin*, Bridge-st., Southwark, Surrey, plumber, Nov. 14 at 11, London, div.—*John Cross*, Windsor, Berkshire, draper, Nov. 14 at half-past 12, London, div.—*John Ashton*, St. Paul's-road, Highbury, builder, and Ring-cross, Holloway, Middlesex, coffee-house keeper, Nov. 17 at half-past 11, London, div.—*Thomas Nicholson*, Sunderland, Durham, nail merchant, Nov. 15 at 12, Newcastle-upon-Tyne, div.

#### CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*Hugh Boughen*, Norwich, chemist, Nov. 17 at half-past 11, London.—*William Perrin and Peter Perrin*, Wellingborough, Northamptonshire, shoe manufacturers, Nov. 14 at half-past 1, London.—*Thomas Nicholson*, Sunderland, Durham, nail merchant, Nov. 14 at 12, Newcastle-upon-Tyne.—*James McNulty and John McNulty*, Ashton-under-Lyne, Lancashire, joiners, Nov. 15 at 12, Manchester.—*P. Milne*, Stamford, Lincolnshire, boot maker, Nov. 20 at half-past 12, Nottingham.—*Wm. Jeffries*, Hartshill, Dudley, Worcestershire, ironmaster, Nov. 14 at 11, Birmingham.—*Joseph E. Blech*, Liverpool, shipbroker, Nov. 16 at 11, Liverpool.—*J. Muir*, Kingston-upon-Hull, draper, Dec. 19 at 12, Kingston-upon-Hull.

*To be granted, unless an Appeal be duly entered.*

*Robert Watling Sexton*, Norwich, builder.—*Jas. Alfred Axtell, Wm. Budd Knights, and William Axtell*, White's-grounds, Bournemouth, Surrey, tanners.—*Arthur Jackson and Richard Michell Eastman*, Liverpool, brokers.

#### PETITION ANNULLED.

*John Henry Cohn*, Richea-court, Lime-street, City, East India merchant.

#### SCOTCH SEQUESTRATIONS.

*Samuel George Beamish*, Glasgow.—*William M'Lintock*, Glasgow, chemical manufacturer.—*Thos. M'Intosh*, Blairgowrie, Perthshire, builder.—*Thomas Lauder*, St. Andrews, Fifeshire, potato merchant.—*Jas. Gowans*, Hawick, watchmaker.—*Wm. Battrum*, Helensburgh, wright.—*J. Miller*, Hardhill, Linlithgowshire, farmer.—*David Anderson*, deceased, Campbelltown, Argyllshire, engineer.—*F. Sutherland*, Clyth, near Lybster, Caithness-shire, innkeeper.—*Wyllie & Millar*, Edinburgh, wine merchants.

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## GAZETTES.—FRIDAY, Oct. 26.

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Chilcote, App., Youlden, Resp.—( <i>Inclosure commissioners—Land included in map annexed to provisional order—Ancient encroachment—8 &amp; 9 Vict. c. 118, ss. 50, 52, 86—Recovery of possession by valuer—Land subject to be inclosed—Jurisdiction of justices—15 &amp; 16 Vict. c. 79, s. 13</i> ) .....	1054

## COURT OF COMMON PLEAS.

By J. GRANT, Barrister at Law.

Castrique v. Imrie.—( <i>Shipping—Judgment in rem—Master—Foreign court—Sale there—Bidding at the sale</i> ) .....	1058
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## THE JURIST.

LONDON, NOVEMBER 3, 1860.

IN a recent article we commenced making some observations upon the provisions contained in the Trustees and Mortgagees Act, 23 & 24 Vict. c. 145. We propose now to continue the examination of the remaining clauses of the act (commencing with the 8th) *seriatim*.

Sect. 8 applies to the renewal of leases by trustees of leaseholds; but whatever may have been the intention of the noble lord who brought in the bill, it appears to us that the amendment which this section received by a superadded proviso (shortly to be noticed) has limited its operation so as to render it almost, if not quite, nugatory. The whole of the 8th section, as it originally stood in the bill, was as follows:—"It shall be lawful for any trustees of any leaseholds for lives or years, which are renewable from time to time, either under any covenant or contract, or by custom or usual practice, if they shall in their discretion think fit, and it shall be the duty of such trustees, if thereunto required by any person having any beneficial interest, present or future or contingent, in such leaseholds, to use their best endeavours to obtain from time to time a renewed lease of the same hereditaments, on the accustomed and reasonable terms, and for that purpose it shall be lawful for such trustees from time to time to make, or concur in making, such surrender of the lease for the time being subsisting, and to do all such other acts as shall be requisite in that behalf." Now, had not these provisions been limited and controlled by a very important amendment, it would have introduced a considerable alteration in the law upon this subject; for it seems to be clearly settled by the authorities, that where renewable leaseholds are put into settlement, trustees are not, in the absence of any direction, either express or implied, in the instrument of settlement authorising it, bound to effect a renewal of the lease.

Lord Cranworth, therefore, proposed to alter the law giving the trustees of renewable leaseholds in all cases a discretionary power of renewal, and rendering a renewal obligatory upon them on the application of a person having any beneficial interest; and by the 9th section the trustees are enabled, in such cases, to raise money for the purpose of renewal. A proviso, however, added to the 8th section, by way of amendment, seems to deprive it of all effect, and to leave the law much in the same state as it was in before; it is as follows:—"But this section is not to apply to any case where, by the terms of the settlement or will, the person in possession for his life, or other limited interest, is entitled to enjoy the same without any obligation to renew the lease, or to contribute to the expense of renewing the same."

The 10th section of the act renders the consent of the persons in receipt of the rents and profits of hereditaments sold or exchanged by trustees under the act necessary in certain cases, if such persons be not under disability.

We now come to the second part of the act, making certain powers incident to mortgages or charges made to secure money advanced or to be advanced by way of loan, or to secure an existing or future debt\*; and before examining these powers, we must remember that they will all be, as it were, considered as incorporated in the instrument creating the mortgage or charge, unless it is declared that they shall not take effect†.

Now, let us see what these powers are, and when they may be exercised.

A person having a mortgage or charge is to have—first, a power of sale; secondly, a power to insure from fire the mortgaged property, whether affixed to the freehold or not; and, thirdly, a power to appoint, or obtain the appointment, of a receiver. These powers may be exercised at any time after the expiration of one year from the time when the principal money shall

\* See sect. 24 of the act, thus limiting the operation of the second part of it.

† See sect. 32.

have become payable, or after any interest on such principal money shall have been in arrear six months, or after any omission to pay any premium on any insurance which, by the terms of the deed, ought to be paid by the person entitled to the property subject to the charge.

In the case of a sale, however, it is not to be made until after six months' notice in writing given to the person, or one of the persons, entitled to the property subject to the charge, or *affixed on some convenient part of the property*. There are also some not unusual provisions—as to receipts for the purchase money, that purchasers are not bound to see to its application, (sect. 12), nor bound to inquire as to whether the sale was justifiable, (sect. 13); as to the application of the purchase money, (sect. 14); as to the conveyance to the purchaser of the interest of the person executing the charge, (sect. 15); and power is given to the owner of the charge to call for the title deeds, and a conveyance of any outstanding legal estate, such as the person creating the charge could have called for, (sect. 16).

(To be continued).

### Court Papers.

#### EQUITY CAUSE LISTS, MICHAELMAS TERM, 1886.

\* \* The following abbreviations have been adopted to abridge the space the Cause Papers would otherwise have occupied:—*A.* Abated—*Adj.* Adjourned—*A. T.* After Term—*Ap.* Appeal—*C. D.* Cause Day—*Cl.* Claim—*C.* Costs—*D.* Demurrer—*E.* Exceptions—*F. C.* Further Consideration—*F. D.* Further Directions—*M.* Motion—*M. D.* Motion for Decree—*P. C.* Pro Confesso—*Pl.* Plea—*Ptn.* Petition—*R.* Rehearing—*S. O.* Stand Over—*Sh.* Short.

#### Before the LORD CHANCELLOR and the LORDS JUSTICES.

Ormes v. Beadel (S., June 26)	Mills v. Barlow (S., July 18)
Remnant v. Hood (R., June 1)	Galaworthy v. Durant (R., July 18)
Jenner v. Jenner (S., June 7)	Adamson v. Trustees of the Birkenhead Docks (W., July 18)
Pearson v. Benson } (R., June 8 and 25)	Mills v. Barlow (S., July 21)
Pearson v. Benson }	Bowser v. Maclean (S., July 24)
Wall v. Cockerell (R., June 15)	Coulson v. Allison (S., July 25)
Bock v. Gorissen (R., June 18)	Lees v. Massey (R., Aug. 1)
Haswell v. Haswell (R., June 19)	Evans v. Carrington (W., Aug. 1)
Lett v. Randall (S., June 25)	North-eastern Railway Co. v. Elliott (W., Aug. 10)
Borton v. Dunbar (S., July 4)	Wilhelm v. Reynolds (K., Aug. 14)
M'Lachlan v. Taitt (R., July 12)	Townsend v. Early (R., Aug. 16)
Turner v. Turner (R., July 13)	Davis v. Snell (R., Sept. 4)
Woolstencroft v. Woolstencroft (S., July 16)	Burch v. Bright } (W., Sept. 18)
Dowland v. Ivison (S., July 17)	Bright v. Burch }

Notice.—The Lord Chancellor will hear such Appeals from Vice-Chancellor Stuart and Vice-Chancellor Wood as can be disposed of during Michaelmas Term.

#### Before the Right Hon. the MASTER OF THE ROLLS.

##### CAUSES, &c.

Hunt v. Tween (D)	Wadeer v. East India Co. (M D)
Baily v. Lamb & } (E to de-	Morley v. Clavering (M D)
sons.	Milne v. Wild (M D) Nov. 5
Baily v. Lamb & } (E to de-	Smith v. Perry (Cause)
sons.	Towle v. Dewes (M D)
Chinnock v. Salisbury (D)	Neville v. Copsy (M D)
Hill v. Mount (M D)	

Richardson v. Barry (Cause)  
Clark v. Eversfield (M D)  
Wilkinson v. Duncan (M D)  
Harrison v. Meek (Cause)  
Hodson v. Coppard (M D)  
Att.-Gen. v. Bridger (F C on equity reserved) Nov. 5  
Waller v. Waller (M D)  
Wilkes v. Greenhill (F C, 4 Summons to vary certif.)  
Weightman v. Blagg (Cause)  
Lewis v. Evans (M D)  
Cooke v. Wilton (M D)  
King v. Maughan (M D)  
Stephens v. Venables (Cause)  
Taylor v. Plummer (M D)  
Stephenson v. Moorhouse (M D)  
Barker v. Barker (Cause)  
Lawton v. Ownsworth (M D)  
Gow v. Addison (M D)  
Forshaw v. Welsby (M D)  
Oram v. Massey (Cause)  
Foss v. Basanno (M D)  
Sharpe v. Gretton (Cl)  
Pigott v. Clerk (F C)  
Phillips v. Davies (M D)  
Williams v. Gerrard (M D)  
Wilson v. Darton (Cause)  
Stone v. Robinson (M D)  
Judd v. Plum (F C)  
Official Manager of the Sheerness Well or Waterworks Co. v. Polson (M D)  
Mold v. Wheatcroft (F C, plaintiff's and defendant's summons to vary certif.)  
Gover v. Davies (F C)  
Swinfen v. Swinfen (F C)  
King v. Hearn (M D)  
Reay v. Rawlinson (F C)  
Bird v. Maybury (Cause)  
Drake v. Hilliard (Cause)

Gidley v. Shapter (F C)  
Phipps v. Child (M D)  
Fisher v. Morris (F C)  
Thomas v. Wilson (M D)  
Brown v. Brown (M D)  
Green v. Baker (M D)  
Calverley v. De la Touche (M D)  
Att.-Gen. v. Principal, &c. of Jesus College, Oxford (M D)  
Cartwright v. Marsden (M D)  
Pocock v. Anglo-Australian and Universal Family Life Assurance Co. (M D)  
Harris v. Harris (M D)  
Ward v. Cornwall (F C)  
White v. Steward (M D)  
Graves v. Graves (F C)  
Feawick v. Ecclesiastical Commissioners for England (M D)  
Bird v. Cooper (F C)  
Peto v. Hammond (Cause)  
Littlewood v. Newton (M D)  
Walmsley v. Gerrard (M D)  
Pratt v. London and South-western Railway Co. (M D)  
Dominy v. London and South-western Railway Co. (M D)  
Stevenson v. Abington (M D)  
Hoblyn v. Schultz (F C)  
Butterworth v. Winstanley (F C)  
Barnes v. Bond (M D)  
Perez v. Williams (M D)  
Mills v. Raymond (M D)  
Slegg v. Slegg (F C)  
Pomfret v. Turner (F C)  
Wilkinson v. Palmer (M D)  
Bebb v. Davis (M D)  
Inchley v. Allaop (M D)  
Simcox v. Law (M D)

#### Before the Vice-Chancellor Sir RICHARD T. KINDERSLEY. CAUSES, &c.

Earl of Portsmouth v. Partridge (D)	Visct. Wellesley (now Earl of Mornington) v. Earl of Mornington
Wood v. Hookway (F C)	Countess of Mornington v. Visct. Wellesley (now Earl of Mornington)
Hairby v. Keith (Cause)	Clark v. Eldridge (M D)
Richards v. Richards (M D)	Reynolds v. Wheelhouse (Ca.)
Dalston v. Hedley (M D)	Powell v. Trotter (M D)
Ingram v. Midland Railway Co. (M D)	Burgess v. Castley (Cause)
Davies v. Marshall (M D)	Ellison v. Thomas (M D)
Oakes v. Buckley (M D)	Beachcroft v. Lewes (Sp. C.)
Hadrick v. Sturgis (M D)	Cadle v. Woollett (M D)
Ward v. Filmer (Cause)	Harrison v. Crosswell (Cause)
New Brunswick and Canada Railway and Land Co. (Limited) v. Mugeridge (Ca.)	Vickers v. Williamson (M D)
Hughes v. Chester and Holyhead Railway Co. (M D)	Berkeley v. Whitley (Cause)
Watlington v. Pridesaux (F C, Summons to vary certif.)	Thourne v. Barrow (F C)
Williams v. Nicholls (Cause)	Goddard v. Parr (F C)
Dow v. Baker (M D)	Hicks v. Hicks (F C)
Young v. Phillips (M D)	Haynes v. Haynes (F C)
Hutton v. Hutton (M D)	Ogilvie v. Smith (F C)
Thompson v. Hope (Cause)	Ogilvie v. Smith (F C)
Pickles v. Pickles (Cause)	Hobman v. Gadsden (Cause)
Bedwell v. Prudence (M D)	Pollard v. Doyle } (F C)
Andrews v. Higgs (M D)	Kearns v. Doyle }
Jenner & Wife v. Morris (Ca.)	Wass v. Pettinger (M D)
Lee v. Day (M D)	Danks v. Davies (F C)
Charman v. White (M D)	Day v. Hair (M D)
David v. Howell (M D)	Forder v. Bowman } (F C)
Fleck v. Wilson (Cause)	King v. Forder }
Henderson v. Dodds (M D)	Drennan v. Andrew (M D)
Eastland v. Carline (M D)	Whitehead v. Bennett (F C)

(F C 2 Summons to vary certif., F C 2)

*Before the Vice-Chancellor Sir JOHN STUART.*

## CAUSES, &amp;c.

Tryon v. Westminster Improvement Commissioners (D)  
 Eversfield v. Clark (M D)  
 Towle v. National Guardian Assurance Society (M D)  
 Cresswell v. Daniel (M D)  
 Elwes v. Elwes (Cause)  
 Kenrick v. Barber (Cause)  
 Harcourt v. Solomon (Cause)  
 Whyte v. Collins (M D)  
 Holloway v. Sturgis (M D)  
 Archer v. Green (M D)  
 Wareing v. Buckley (Cause)  
 Marquet v. Simes (Cause)  
 Gilbert v. Poore (M D)  
 Barry v. Finch (Cause)  
 Currie v. Lewin (Cause)  
 Williams v. Trueman (M D)  
 Gaskell v. Chadwick (M D)  
 Sharp v. Duke of Buckingham and Chandos (M D)  
 Goddard v. Whyte (Cause)  
 Graham v. Keown (M D)  
 Reddrop v. Etches (M D)  
 Todd v. Miles (Cause)  
 Parkin v. Rock (Cause)  
 Percival v. Corsi (Cause)  
 Burton v. Selby (M D)  
 Wade v. Jenkins (Cause)  
 Marriott v. Anchor Reversionary Co. (M D)  
 Osborn v. Bellman (M D)  
 Courtenay v. Wright (M D)  
 Trotman v. Fleisher (M D)  
 Ellice v. Fane (Cause)  
 Allwood v. Allwood (M D)  
 Collins v. Higgins (M D)  
 Griffin v. Clare (M D)  
 Hatchett v. Watmore (M D)  
 Secretary of State in Council of India v. Kelson (M D)  
 Macnaghten v. Smith (M D)  
 Stephenson v. Lord (M D)  
 Page v. Norton (M D)  
 Draper v. Manchester, Sheffield, & Lincolnshire Railway Co. (M D)  
 Bewsher v. Brunsall (Cause)  
 McCulloch v. Bland (M D)  
 Ridgway v. Newstead (M D)  
 Knight v. Knight (F C)  
 Pfeil v. Page (M D)  
 Evans v. Thomas (M D)  
 Spackman v. Lattimore (Ca.)

Tarleton v. Wilson (M D)  
 Mapstone v. Evans (M D)  
 Lains v. Naylor (M D)  
 Law v. Buck (F C)  
 In re Clement } (F C, adj.  
 Clement v. Clement } chambers)  
 Simpson v. Hall (M D)  
 Neighbour v. Brown (F C)  
 Davie v. Messiter (Cause)  
 Underwood v. Underwood } (F C)  
 Campbell v. Underwood }  
 Newby v. Langford (M D)  
 Gilchrist's Estate } (F C, adj.  
 Bell v. Gilchrist } from ch.)  
 Lander v. West (M D)  
 Illingworth v. Walker (F C)  
 Tate v. Mount (F C)  
 Vining v. Knight (F C)  
 Masters v. Hyde (M D)  
 Hogg v. Reid (Cause)  
 Wood v. Fletcher (F C)  
 M'Master v. Williams (M D)  
 Bentley v. Lander (F C)  
 Plaskitt v. Worsley (F C)  
 Wollen v. Temple (Cause)  
 Att.-Gen. v. Bond (M D)  
 Warmoll v. Warmoll (F C)  
 Lloyd v. Chime (M D)  
 Buck v. Hartley (M D)  
 Carrington v. Smedley (F C)  
 Hartley v. Smith (M D)  
 Barlow v. Jones (Cause)  
 Johnson v. Smart (F C)  
 Booth v. Colton (F C, Summons to vary certificate)  
 Webb v. Holton (M D)  
 Silvester v. Silvester (M D)  
 Sparrow v. Haldane (Cause)  
 Garland v. Kiarman (F C)  
 Holloway v. Sturgis (M D)  
 Colston v. Colston (M D)  
 Nicks v. Nicks (M D) Sh  
 Berney v. Norfolk Railway Co. (Cause)  
 Burrell v. Bigge (M D)  
 Wheelwright v. Coe (F C)  
 Springett v. Deashwood (F C)  
 Tardrew v. Howell }  
 Same v. Same } (F C)  
 Parry v. Howell }  
 Crouch v. Layman (F C).

*Before the Vice-Chancellor Sir W. P. WOOD.*

## CAUSES, &amp;c.

Wilson v. Whateley (Special case, part heard)  
 Antrobus v. Freeman (M D, part heard, Summons)  
 Arnold v. Coepe (D)  
 Gover v. Mathews (M D)  
 Rumball v. George (F C)  
 Hodder v. Tarte (Cause)  
 Curwen v. Jameson (M D)  
 Williams v. Todd (Cause)  
 Lorlin v. London and North-western Railway Co. (M D)  
 Phippen v. Bath (F C)  
 Whalley v. Ramage (Cause)  
 Lackersteen v. Lackersteen (M D, part heard) Nov. 5  
 Kelly v. Wightman (M D)  
 Williams v. Lewis (Cause)  
 Glover v. Baker (M D)  
 Isaac v. Stuart (Cause)

Jackson v. Calvert (Cause)  
 Dean v. Handley (M D)  
 Price v. Newton (M D)  
 Newby v. Chaytor (Cause)  
 Harrison v. Barton (M D)  
 Goodyear v. Sebright (M D)  
 Wrightson v. Calvert (M D)  
 Aplin v. Cates (M D)  
 Grierson v. Astle (M D)  
 Wetherell v. Thomas (Cause)  
 Phippen v. Phippen (M D)  
 Spaight v. Rymer (Cause, Ptn)  
 Perkins v. Cooke (M D)  
 Warren v. Cutts (Cause)  
 Herenc v. Brown (M D)  
 Vaughan v. South Metropolitan Cemetery Co. (Cause)  
 Cottam v. Eastern Counties Railway Co. (Cause)

Scott v. Miller (Cause)  
 Footner v. Jolliffe (M D)  
 Coston v. Gardner (Cause)  
 Peterson v. Maggs (M D)  
 Descombes v. Chollet (M D)  
 Valentin v. Collison (M D)  
 Rollason v. Council of the Borough of Birmingham (M D)  
 Shelton v. Smith (M D)  
 Fryer v. Mortimore (Cause)  
 Thompson v. Whitmore (M D)  
 Whitmore v. Bainbrigge (M D)  
 Gibbs v. Laurence (Sp. case)  
 Jarvis v. Moore (M D)  
 Le Maitre v. Wing (M D)  
 Gower v. Gower (Sp. case)  
 Cook v. Pennell (Cause)  
 Perez v. Hamer (M D)  
 Haynes v. Haynes (M D)  
 Wright v. Tuckett (M D)  
 Eastham v. Wilkinson (Further hearing)  
 Vicary v. Vicary (Sp. case)  
 Baillie v. Howell (M D)  
 Newton v. Highway (M D)  
 Lemon v. Whimper (M D)  
 Whitmore v. Turquand (M D)  
 Heywood v. Heywood (M D)  
 Clayton v. Cowland (M D)  
 Masters v. Bunn (Cause)  
 Hinds v. Bone (M D)  
 Wolfram v. Upward (Cause)  
 Hale v. Bolton (M D)  
 Holden v. Webber (Cause)  
 Stovold v. Stovold (M D)  
 Morgan v. Redman (M D)  
 Talbot v. Crossley (M D)  
 Duffield v. Currie (M D)  
 Jones v. Dixon (Cause)  
 Ball v. Williams (M D)  
 Prince Alexander Torlonia v. Wiesbaden Railway Co. (M D)  
 Lywood v. Warwick (M D)  
 Garner v. Garner (Cause)  
 London, Brighton, and South Coast Railway Co. v. Turnley (M D)  
 Garrick v. Tayler (Cause)  
 Hughes v. Lewis (Cause)  
 Webb v. England (M D)  
 Norris v. Chambres (Cause)  
 Badham v. Allen (M D)  
 Crooks v. Begg (M D)  
 Larner v. Eade (M D) Sh  
 Hale v. Bolton (M D)  
 Nugee v. Chapman (M D)  
 Cooper v. Hubbuck (M D)  
 Heath v. Nugent (M D)  
 Ley v. Clift (M D)  
 Ford v. Tynte (Cause)  
 Jeffries v. Drysdale (M D)  
 Marsh-Caldwell v. Marsh-Caldwell (M D)  
 Hare v. London and North-western Railway Co. (M D)  
 Nov. 5

Turner v. Guardians of the Poor of West Bromwich Union (M D)  
 Seahouse v. Gaitkall (F C)  
 Gardner v. Lashbrooke (M D)  
 Shaw v. Shaw (Cause)  
 Broadbent v. Barlow (M D)  
 Godfrey v. Mountain (F C)  
 Gardiner v. Stevens (M D)  
 Moss v. Cooper (Cause)  
 Consolidated Investment and Assurance Co. v. Garner (Cause)  
 Swanzy v. Swanzy (Cause)  
 Holden v. Weekes (M D)  
 Manning v. Petherick (F C)  
 Thackeray v. Parker (M D)  
 Niven v. Overbury (Cause)  
 Crickmore v. Crickmore (M D)  
 De Combe v. De Combe (F C)  
 Gall v. Dearn (M D)  
 Shepley v. Richards (M D)  
 Lambert v. Rawlings (M D)  
 Jones v. Dilke (F C)  
 Chittenden v. Lawford (F C)  
 Poore v. Wright (F C)  
 Isaac v. Stuart (Cause)  
 Garrett v. Kennedy (F C)  
 Norris v. Sheppard (M D)  
 Meredith v. Palfrey (F C)  
 Marsh v. Att.-Gen. (F C)  
 In re Davis } (F C, adj.  
 Butler v. Withers } from ch.)  
 Brocklehurst v. Wardle (Cause)  
 Snow v. Wilkes (F C)  
 Clark v. Bayspoole (M D)  
 Clack v. Carlow (M D)  
 Joel v. Mills (M D)  
 Johnston v. Wensley (Cause)  
 North-eastern Railway Co. v. Mayor, Aldermen, & Burgesses of the Borough of South Shields (Cause)  
 Clayton v. Finch (F C)  
 Gaylard v. Hackwell (Cause)  
 Irwin v. Irwin (Cause)  
 Lee v. Dawson (M D)  
 Turner v. Mullineaux } (F C)  
 Turner v. Turner }  
 Perkins v. Mellor (F C)  
 Scott v. Freeman (M D)  
 Bond v. Barnes (M D)  
 Price v. Patent Fuel Co. (Limited) (M D)  
 Basham v. Rose (Cause)  
 Cotton v. Cripps (M D)  
 Sidebotham v. Horsfield (M D)  
 Bristo v. Ashford (M D)  
 Lumby v. Lumby (M D)  
 Osborn v. Gutteridge (F C)  
 Higgs v. Budworth (M D)  
 Barnard v. Beacon (M D)  
 Farina v. Loewe (M D)  
 Hopps v. Wood (F C)  
 Maddison v. Chapman (F C)  
 Newby v. Harrison (M D)  
 Johnson v. Beaver (M D)  
 Tuckley v. Thompson (F C).

COMMON-LAW SITTINGS, IN AND AFTER  
MICHAELMAS TERM, 1866.

## Court of Queen's Bench.

## In Term.

## LONDON.

MIDDLESEX.  
 1st sitting, Monday .. Nov. 5  
 2nd sitting, Wednesday .. 14  
 3rd sitting, Wednesday .. 21  
 For undefended causes only.

1st sitting, Monday, Nov. 12  
 2nd sitting, Monday .. 19

*After Term.*

Tuesday ..... Nov. 27 | Tuesday ..... Dec. 11

The Court will sit at ten o'clock every day.

The causes in the list for each of the above sitting days in term, if not disposed of on those days, will be tried by adjournment on the days following each of such sitting days.

**Court of Common Pleas.***In Term.***MIDDLESEX.****LONDON.**

Tuesday ..... Nov. 6 | Monday ..... Nov. 12

Wednesday ..... 14 | Monday ..... 19

*After Term.*

Tuesday ..... Nov. 27 | Monday ..... Dec. 10

The Court will sit during and after term at ten o'clock.

The causes in the list for each of the above sitting days in term, if not disposed of on those days, will be tried by adjournment on the days following each of such sitting days.

**Exchequer of Pleas.***In Term.***MIDDLESEX.****LONDON.**

1st sitting, Monday .. Nov. 5 | 1st sitting, Monday, Nov. 12

2nd sitting, Wednesday .. 14 | 2nd sitting, Monday ..... 19

3rd sitting, Wednesday .. 21 | 2nd sitting, Monday ..... 19

*After Term.*

Tuesday ..... Nov. 27 | Monday ..... Dec. 10

The Court will sit in and after term at ten o'clock.

The Court will sit in Middlesex, at Nisi Prius, in term, by adjournment from day to day, until the causes entered for the respective Middlesex Sittings are disposed of.

**COMMON-LAW CAUSE LISTS, MICHAELMAS TERM, 1886.**

**Court of Exchequer.****SITTINGS—TRINITY TERM, 1886.***Days in Term.**Banc.*

Friday ..... Nov. 2 | Motions and Peremptory Paper.

Saturday ..... 3 | Errors, Peremptory Paper, and Motions.

Monday ..... 5 | .....

Tuesday ..... 6 | .....

Wednesday ..... 7 | Special Paper.

Thursday ..... 8 | .....

Friday ..... 9 | Lord Mayor sworn.

Saturday ..... 10 | Criminal Appeals.

Monday ..... 12 | Special Paper. Sheriffs nominated.

Tuesday ..... 13 | .....

Wednesday ..... 14 | Special Paper.

Thursday ..... 15 | .....

Friday ..... 16 | .....

Saturday ..... 17 | .....

Monday ..... 19 | Special Paper.

Tuesday ..... 20 | .....

Wednesday ..... 21 | Special Paper.

Thursday ..... 22 | .....

Friday ..... 23 | .....

Saturday ..... 24 | .....

Monday ..... 26 | .....

*Days in Term.**Nisi Prius.*

Monday ..... Nov. 5 | Middlesex, first Sitting.

Monday ..... 12 | London, first Sitting.

Wednesday ..... 14 | Middlesex, second Sitting.

Monday ..... 19 | London, second Sitting.

Wednesday ..... 21 | Middlesex, third Sitting.

**NEW TRIALS.****FOR JUDGMENT.**

Midd.—Croxon v. Moss  
Chester—Plant v. Taylor  
" Same v. Same  
Liverp.—Robson v. Lees  
Midd.—Wheeler v. Stevenson  
" M'Carthy v. Young

**FOR ARGUMENT.**

*Moved Mich. Term, 1886.*  
Cornwall—Chappell v. Bray  
*Moved Easter Term, 1886.*  
Chester—Legh v. Lillie  
Liverp.—Seymour v. Greenwood.

**SPECIAL PAPER.****FOR JUDGMENT.**

Dick v. Tolhausen (D., to stand over till motion for judgment on issue of null tiel record disposed of)

Morant v. Chamberlin (Sp. C)

Same v. Same (D.)

**FOR ARGUMENT.**

Brewer v. Dimmack (D., part hd., standing for arrangement)

London and North-western Railway Co. v. Great Western Railway Co. (D., standing over for arrangement)

Anglo-Californian Gold Mining Co. v. Lewis (D., to stand over till issues in fact tried)

Fressart v. Lawrence (D. to 6th plea ordered to stand over till issues in fact tried)

Hazard v. Mare (D.)

Grand Union Canal Co. v. Ashby (Sp. C. by order).

**PEREMPTORY PAPER.**

*To be called on the first Day of Term after the Motions, and to be proceeded with the next Day, if necessary, before the Motions.*

Goaling v. Richards.

street, Middlesex, draper.—Andrew Wilson, Aldershot, Hampshire, surgeon.—Francis Augustus Pizzala and M. C. Greene, Hatton-garden, Middlesex, looking-glass manufacturers.—Josiah Dickens Wingrave and Thos. Wm. Wood, St. Albans, Hertfordshire, and Luton, Bedfordshire, straw-plait manufacturers.—James Vincent Howes, Chiswell-st., Middlesex, leather seller.—Edmund John Burn the younger, Brighton, Sussex, stationer.—Samuel Oyler Beeman, Lower Thames-street, City, wine merchant.—Robert Watson and Charles Wm. Watson, Kettering, Northamptonshire, currier.—John Price, Abertillery, Aberystroth, Monmouthshire, draper.—James Hall, Monmouth, innkeeper.—T. Palmer and Samuel Palmer, Plymouth, drapers.

**PETITIONS ANNULLED.**

James Zacharias Williams, Henrietta-st., Covent-garden, Middlesex, builder.—Richard Maykin, Blackfriars-road, Surrey, tea dealer.

**PARTNERSHIP DISSOLVED.**

Andrew Snape Thorndike and William Smith, Staple-inn, Middlesex, attorneys and solicitors.

**SCOTCH SEQUESTRATIONS.**

John M'Murtrie & Co., Glasgow, boot manufacturers.—Alexander M'Fie, Kilmarnock, tanner.—Walter Dingwall, Ramornie, Fifeshire, factor.—James Johnston, Maxwelltown, Troqueer, Kirkcudbrightshire, provision merchant.—James Johnson & Co., Glasgow, potters.—John Campbell, Rothesay, joiner.

**TUESDAY, Oct. 30.****BANKRUPTS.**

WILLIAM HARMAN, otherwise WILLIAM FREDERICK HARMAN, Emmett-street, Poplar, Middlesex, outfitter, Nov. 13 and Dec. 13 at 12, London: Off. Ass. Bell; Sols. Heather & Son, 17, Paternoster-row.—Pet. f. Oct. 25.

JOSEPH HOLLINGS, Charles-st., Hampstead-road, Middlesex, cowkeeper, Nov. 13 at 11, and Dec. 13 at 1, London: Off. Ass. Johnson; Sol. Roberts, 8, Barge-yard-chambers, Bucklersbury.—Pet. f. Oct. 29.

ROBERT CRADOCK DAVIES and JOHN NICHOLS TROUGHTON, Shoreditch, Middlesex, bankers, (trading under the style or firm of Robert Davies & Co.), Nov. 12 and Dec. 21 at 11, London: Off. Ass. Johnson; Sols. Tanqueray & Co., 34, New Broad-street.—Pet. f. Oct. 29.

WILLIAM STRONG, Merton-road, Wandsworth, Surrey, builder, Nov. 10 at half-past 10, and Dec. 14 at half-past 12, London: Off. Ass. Cannan; Sol. Neal, Pinner's-hall, Old Broad-street.—Pet. f. Oct. 27.

FREDERICK SAGE and PETER PANTER, Hatton-garden, and Liquorpond-st., Middlesex, builders, (in co-partnership with Alexander Kennedy), Nov. 16 at 12, and Dec. 14 at half-past 11, London: Off. Ass. Cannan; Sols. Smith & Son, 6, Barnard's-inn, Holborn.—Pet. f. Oct. 23.

**GIOVANNI PORPA**, St. James's-street, Westminster, Middlesex, tailor, Nov. 14 at 1, and Dec. 11 at 12, London: Off. Ass. Stansfeld; Sols. West & King, Charlotte-row, Mansion-house, City.—Pet. f. Oct. 26.

**WILLIAM BOREHAM**, Wilmot-street, Russell-square, Middlesex, plumber, Nov. 14 and Dec. 5 at 12, London: Off. Ass. Graham; Sols. Dangerfield & Fraser, 20, Craven-street, Strand, London.—Pet. f. Oct. 24.

**GEORGE FREDERICK LARRATT**, late of Coleman-street, London, lithographic printer, (in co-partnership with Edward Lewis, trading under the firm of Edward Lewis & Co.), and now of Torrione-avenue, Camden-town, Middlesex, out of business, Nov. 14 at half-past 12, and Dec. 5 at 1, London: Off. Ass. Graham; Sol. Chidley, 10, Basinghall-street, London.—Pet. f. Oct. 27.

**ELIZABETH LYNN MOORE**, widow, and **JOSEPH LYNN MOORE**, Dorking, Surrey, carpenters, Nov. 12 at half-past 1, and Dec. 12 at 12, London: Off. Ass. Pennell; Sol. Young, 6, Serjeants'-lan, Fleet-street, London.—Pet. f. Oct. 27.

**HENRY ROBERT ENGLISH**, Brierley-hill, Staffordshire, licensed victualler, Nov. 12 and Dec. 3 at 11, Birmingham: Off. Ass. Kinnear; Sols. Bolton & Sanders, Dudley; James & Knight, Birmingham.—Pet. d. Oct. 27.

**JOHN MARTIN**, Sedgley, Staffordshire, innkeeper, Nov. 9 and 29 at 11, Birmingham: Off. Ass. Whitmore; Sol. Bodding, Dudley.—Pet. d. Oct. 29.

**JOSEPH HULFORD**, Birmingham, licensed victualler, Nov. 9 and 29 at 11, Birmingham: Off. Ass. Whitmore; Sols. E. & H. Wright, Birmingham.—Pet. d. Oct. 22.

**JOSEPH HARTLEY**, Calverley, Yorkshire, cloth manufacturer, Nov. 9 and Dec. 7 at 11, Leeds: Off. Ass. Young; Sol. Simpson, Leeds.—Pet. d. Oct. 18.

**GEORGE WILKINSON**, Durham, grocer, Nov. 9 and Dec. 18 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Smith, Durham; Watson, Newcastle-upon-Tyne; Bell & Co., Bow-churchyard, London.—Pet. f. Oct. 25.

## MEETINGS.

*Joshua Hyams*, Spencer-street, Clerkenwell, Middlesex, watch manufacturer, Nov. 20 at half-past 1, London, aud. ac.—*F. L. Simond*, Cullum-street, City, merchant, Nov. 10 at 11, London, aud. ac.—*S. F. L. Pereira* and *John Grant*, Great Tower-street, City, wine merchants, Nov. 12 at 11, London, aud. ac.—*James O. Kent*, Waterloo-place, Limehouse, Middlesex, draper, Nov. 12 at 11, London, aud. ac.—*Thomas James Smith*, Luton, Bedfordshire, tailor, Nov. 12 at 11, London, aud. ac.—*Wm. P. Watson*, Hampstead-road, Middlesex, draper, Nov. 12 at 11, London, aud. ac.—*John F. Kent*, Croydon, Surrey, builder, Nov. 12 at 11, London, aud. ac.—*Frank Castelli*, Bury-court, St. Mary-axe, City, commission agent, Nov. 13 at 12, London, aud. ac.—*William M'Haflie* the younger, Austin-friers, City, merchant, Nov. 13 at 12, London, aud. ac.—*George V. Jackson*, New Broad-street, City, commission merchant, Nov. 13 at half-past 1, London, aud. ac.—*John Giles Sullivan*, Blackman-street, Southwark, Surrey, shoe manufacturer, Nov. 13 at 1, London, aud. ac.—*Edmund Rudge*, Tewkesbury, Gloucestershire, tanner, Nov. 29 at 11, Bristol, aud. ac.—*Wm. Hookway*, Canton, Llandaff, Glamorganshire, builder, Nov. 22 at 11, Bristol, aud. ac.—*Francis Beard*, Weston-super-Mare, Somersetshire, builder, Nov. 22 at 11, Bristol, aud. ac.—*Edward J. Hopkins*, Fishponds, Gloucestershire, draper, Nov. 29 at 11, Bristol, aud. ac.—*Arthur Jackson* and *Richard M. Eastman*, Liverpool, brokers, Nov. 9 at 11, Liverpool, aud. ac. joint est., and aud. ac. sep. est. of *Richard M. Eastman*.—*T. Nicholson*, Sunderland, Durham, steel maker, Nov. 14 at 12, Newcastle-upon-Tyne, aud. ac.—*John Ray Gregg*, Whitehaven, Cumberland, grocer, Nov. 14 at half-past 12, Newcastle-upon-Tyne, aud. ac.—*James E. Claridge*, Hill Croome, Worcestershire, and Charlborough, Oxfordshire, drover, Nov. 23 at 11, Birmingham, aud. ac.; Nov. 30 at 11, div.—*Fredrick Giles*, Dudley Port, Tipton, Staffordshire, coal master, Nov. 23 at 11, Birmingham, aud. ac.; Nov. 30 at 11, div.—*William Harrie*, Stoke Prior, Worcestershire, hay dealer, Nov. 23 at 11, Birmingham, aud. ac.—*John Page*, Tong Norton, Tong, Shropshire, licensed victualler, Nov. 23 at 11, Birmingham, aud. ac.—*Nathaniel Smith* the younger, Hosham, Martley, Worcestershire, hotel keeper, Dec. 7 at 11, Birmingham, aud. ac.—*William Phillips* the younger, Birmingham, pork butcher, Nov. 23 at 11, Birmingham, aud. ac.

—*Thomas Sweetlove*, Great Bridge, Staffordshire, chemist, Nov. 23 at 11, Birmingham, aud. ac.—*Joseph Oldroyd*, Batley, Yorkshire, blanket manufacturer, Nov. 20 at 11, Leeds, aud. ac.—*Mason Dyson*, Leeds, Yorkshire, dealer in flour, Nov. 20 at 11, Leeds, aud. ac.—*Joshua Joseph Henry Taylor*, Almondsbury, Yorkshire, manufacturer, Nov. 20 at 11, Leeds, aud. ac. and div.—*John King Westrop*, Staining-lane, City, glove manufacturer, Nov. 23 at 1, London, div.—*Nicholas Corsey* and *Paul Mazimos*, Threadneedle-street, City, merchants, Nov. 23 at 11, London, div. sep. est. of *Nicholas Corsey*.—*John Baxter Folkard*, Jermyn-street, St. James's, Westminster, Middlesex, tailor, Nov. 23 at half-past 12, London, div.—*John Ades Pervanoglu*, Union-court, Old Broad-street, City, merchant, Nov. 23 at 12, London, div.—*Henry Baldwin* and *John Baldwin*, Cornhill, City, tailors, Nov. 23 at half-past 1, London, div. sep. est. of *Henry Baldwin*.—*Morris Roberts Syers*, *James Walker*, and *Daniel Bachhouse Syers*, Ball-alley, Lombard-street, City, merchants, Nov. 23 at 11, London, div. sep. est. of *Morris Roberts Syers*.—*William Pavitt* and *Daniel Pavitt*, Alfred-street, Bow-road, Middlesex, and *George Pavitt*, Myddleton-road, Kingsland-road, Middlesex, millers, Nov. 23 at half-past 11, London, div.—*John Williams*, Cardiff, Glamorganshire, draper, Nov. 29 at 11, Bristol, div.—*Thomas Lewis*, Abergavenny, Monmouthshire, ironmonger, Nov. 29 at 11, Bristol, fin. div.—*John Latch*, Bristol, broker, Nov. 22 at 11, Bristol, div.—*Charles Davies* and *Edward Davies* the younger, Whitby, Cheshire, soap manufacturers, Nov. 22 at 11, Liverpool, fin. div. sep. est. of *Charles Davies*.—*Fred. August Gross*, Newcastle-upon-Tyne, furniture dealer, Nov. 22 at half-past 12, Newcastle-upon-Tyne, div.—*Elizabeth Aydon* and *Thomas Wm. Ferguson*, Newcastle-upon-Tyne, grocers, Nov. 23 at 12, Newcastle-upon-Tyne, fin. div.—*Charles Marson* the elder, Leominster, Herefordshire, innkeeper, Dec. 7 at 11, Birmingham, div.—*John Legge*, Walsall, Staffordshire, iron manufacturer, Dec. 7 at 11, Birmingham, div.—*John Peck*, Birmingham, brass-cock founder, Nov. 30 at 11, Birmingham, div.—*James Kelsey* and *Edmund Kelsey*, Nuneaton, Warwickshire, tailors, Nov. 30 at 11, Birmingham, div.—*William Bogle*, Birmingham, seed merchant, Nov. 30 at 11, Birmingham, div.—*John Nacons* and *John Hampton Wilkinson*, Wolverhampton, Staffordshire, drapers, Dec. 7 at 11, Birmingham, div.—*William Jackson* the elder, Kingston-upon-Hull, soap manufacturer, Nov. 28 at 12, Kingston-upon-Hull, div.

## CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*Joshua Hyams*, Spencer-street, Clerkenwell, Middlesex, watch manufacturer, Nov. 20 at half-past 1, London.—*Edwin Brook*, Charsfield, Suffolk, cattle dealer, Nov. 21 at 1, London.—*Charles Ballard*, Brownlow-place, Queen's-road, Dalston, Middlesex, shoe manufacturer, Nov. 20 at 1, London.—*Charles Selson Davis*, Goswell-street, Middlesex, and Chatworth-cottages, Forest-lane, Stratford, Essex, bookbinder, Nov. 21 at 12, London.

*To be granted, unless an Appeal be duly entered.*

*Thomas Fenn* and *William Thomas Fenn*, Norwich, Norfolk, and Fore-street, Cripplegate, London, and Tuilerie-street, Hackney-road, Middlesex, wholesale shoe manufacturers.—*William Knight*, Portobello-terrace, Kensington-park, and Hereford-road, Baywater, Middlesex, cowkeeper.—*Thomas Thorp*, Clapham-road, Surrey, draper.—*Henry Croypley Haylock*, Linton, Cambridgeshire, apothecary.—*James Richard William John Pollard Woodward*, Oundle, Northamptonshire, innkeeper.—*George Stone Hubbard*, Aldermanbury, City, warehouseman.

## PETITION ANNULLED.

*Alfred Sylvester*, New Dorset-place, Clapham-road, Surrey, photographic artist.

## SCOTCH SEQUESTRATIONS.

*Alexander Christie*, Glasgow, merchant.—*Thomas Dick Wilkie*, Markinch, grocer.—*Alexander Bryden*, Glasgow, merchant.—*Jas. Couston*, Leith, merchant.—*Robt. Findlay*, Aberdeen, provision curer.—*James Wood*, Edinburgh, cabinetmaker.—*Donald Munro*, Blackcroft, Latheron, Caithnessshire, cattle dealer.—*William Hay*, East Mildens, Rescobie, miller.

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R R

## GAZETTES.—FRIDAY, Nov. 2.

## BANKRUPTS.

- CHARLES GRAY BAIL**, Peterborough, Northamptonshire, coal merchant, Nov. 13 and Dec. 11 at 12, London: Off. Ass. Bell; Sols. Wright & Bonner, London-street, Fenchurch-street.—Pet. f. Oct. 30.
- JOHN ARNOLD** the younger, Woodbridge, Suffolk, innkeeper, Nov. 13 at 2, and Dec. 11 at half-past 12, London: Off. Ass. Bell; Sol. Jones, Colchester, and 61, Chancery-lane, London.—Pet. f. Nov. 2.
- FREDERICK CAPLIN**, Drury-lane, Middlesex, hosier, Nov. 13 and Dec. 13 at 2, London: Off. Ass. Johnson; Sols. Harrison & Lewis, Old Jewry.—Pet. pres. Oct. 3.
- JONATHAN WOOD, CHARLES WOOD, and THOMAS MARSHALL**, Brick-lane, Spitalfields, Mile-end, Tottenham, Ponder's-end, and Enfield, Middlesex; Loughton, Essex; and Waltham and Cheshunt, Hertfordshire, coal merchants, (trading under the style or firm of J. & C. Wood), Nov. 10 at half-past 10, and Dec. 14 at 12, London: Off. Ass. Whitmore; Sol. Carr, 25, Rood-lane, London.—Pet. f. Oct. 24.
- CHARLES HERBERT**, Churton-street, Belgrave-road, Pimlico, Middlesex, printer, Nov. 16 at 1, and Dec. 14 at 11, London: Off. Ass. Whitmore; Sols. Lawrance & Co., 14, Old Jewry-chambers, Old Jewry.—Pet. f. Nov. 1.
- LEWIS POWELL**, Chapel-place, Cavendish-square, Middlesex, builder, (trading as Lewis Powell & Co.), Nov. 16 at 12, and Dec. 14 at 1, London: Off. Ass. Cannan; Sols. Lawrance & Co., 14, Old Jewry-chambers, Old Jewry.—Pet. f. Nov. 2.
- WILLIAM COX**, Lamb's Conduit-street, St. George-the-Martyr, Middlesex, pickle manufacturer, Nov. 14 at 12, and Dec. 15 at 11, London: Off. Ass. Stansfeld; Sols. Clowes & Co., Temple, London.—Pet. f. Oct. 30.
- WILLIAM BOYCE**, East Dereham, Norfolk, printer, Nov. 14 and Dec. 13 at 12, London: Off. Ass. Pennell; Sols. Marcon, Swaffham, Norfolk; Plimsaul, 7, South-square, Gray's-Inn, London.—Pet. f. Nov. 1.
- RALPH ERRINGTON RIDLEY**, Great St. Helen's, Bishopsgate-street, London, and Newcastle-upon-Tyne, merchant, (trading under the style or firm of John Ridley & Sons), Nov. 12 at 11, and Dec. 12 at 1, London: Off. Ass. Pennell; Sols. Lawrence & Co., 12, Bread-st., Cheap-side, London.—Pet. f. Oct. 30.
- WILLIAM SMITH**, Eastbourne-mews, Westbourne-terrace, Paddington, Middlesex, horse dealer, Nov. 12 at 2, and Dec. 12 at half-past 12, London: Off. Ass. Pennell; Sol. King, 25, College-hill, London.—Pet. f. Oct. 29.
- JOHN SLATER MARSHALL**, Billiter-street, City, shoe factor, Nov. 14 and Dec. 13 at 11, London: Off. Ass. Pennell; Sol. Reed, 3, Gresham-street, London.—Pet. f. Aug. 28.
- THOMAS MAYO**, Chesham, Buckinghamshire, wooden ware manufacturer, Nov. 12 at 2, and Dec. 17 at half-past 12, London: Off. Ass. Pennell; Sols. Lawrence & Co., 14, Old Jewry-chambers, Old Jewry, London.—Pet. f. Oct. 31.
- JAMES MAUD ABBOTT**, Hanwell, Middlesex, carpenter, Nov. 12 at half-past 2, and Dec. 17 at 12, London: Off. Ass. Pennell; Sol. Draper, 29, Charlwood-street, Pimlico.—Pet. f. Oct. 29.
- THOMAS BLABER DANIELL**, High-street, Poplar, Middlesex, ironmonger, Nov. 16 at half-past 2, and Dec. 18 at 12, London: Off. Ass. Lee; Sol. Norton, 10, Clifford's-inn, Fleet-street, London.—Pet. f. Oct. 31.
- GEORGE PACEY**, Birmingham and Edgbaston, Warwickshire, carriage dealer, (a prisoner for debt in her Majesty's Gaol of Stafford), Nov. 15 and Dec. 7 at 11, Birmingham: Off. Ass. Kinnear; Sol. Reece, Birmingham.—Pet. d. Oct. 24.
- FREDERICK BAKER**, Wednesbury, Staffordshire, draper, Nov. 15 and Dec. 7 at 11, Birmingham: Off. Ass. Whitmore; Sols. James & Knight, Birmingham; Sole & Co., Aldermanbury, London.—Pet. d. Oct. 24.
- JOHN MILLER**, Nottingham, pawnbroker, Nov. 15 and Dec. 6 at half-past 11, Nottingham: Off. Ass. Harris; Sol. Coops, Nottingham.—Pet. d. Oct. 30.
- WILLIAM NICHOLS**, Leicester, manufacturer of blue, Nov. 15 and Dec. 6 at half-past 11, Nottingham: Off. Ass. Harris; Sols. Toller & Toller, Leicester.—Pet. d. Oct. 29.
- WILLIAM HAMILTON RUTHERFORD**, Nottingham, grocer, (trading under the name of William Rutherford), Nov. 15 and Dec. 6 at half-past 11, Nottingham: Off. Ass. Harris; Sol. Sollory, Nottingham.—Pet. d. Oct. 29.
- GEORGE BATTERS**, Nottingham, printer, Nov. 15 and Dec. 6 at half-past 11, Nottingham: Off. Ass. Harris; Sol. Battery, Nottingham.—Pet. d. Nov. 1.
- RICHARD HITCHINS CURTIS**, Aberavon, Glamorgan-shire, grocer, Nov. 13 and Dec. 11 at 11, Bristol: Off. Ass. Acraman; Sols. Simons & Morris, Swansea; Henderson, Bristol.—Pet. f. Oct. 20.
- JOHN CLARK**, Maidlee and Newport, Monmouthshire, licensed victualler, Nov. 13 and Dec. 11 at 11, Bristol: Off. Ass. Miller; Sols. Pain, Newport; Bevan & Co., Bristol.—Pet. f. Oct. 29.
- ELIEZER TIMEWELL**, Kirkdale, Lancashire, cartowner, Nov. 13 and Dec. 9 at 11, Liverpool: Off. Ass. Cazenove; Sols. Snowball & Copeman, Liverpool.—Pet. f. Oct. 30.
- WILLIAM JAMES WELCH**, Nantwich, Cheshire, coach-builder, Nov. 13 at 12, and Dec. 3 at 11, Liverpool: Off. Ass. Bird; Sols. Tyrer, Liverpool; Richardson, Old Jewry-chambers, London.—Pet. f. Oct. 24.
- GEORGE FIELDER**, Manchester, woolstapler, Nov. 16 and Dec. 7 at 12, Manchester: Off. Ass. Hernaman; Sols. Redfern, Oldham; Sale & Co., Manchester.—Pet. f. Oct. 29.
- WILLIAM HILL ABRAM**, Fairfield, Lancashire, upholsterer, (late carrying on business at Manchester), Nov. 13 and Dec. 4 at 12, Manchester: Off. Ass. Hernaman; Sols. Rowley & Son, Manchester; Taylor & Jaquet, 15, South-street, Finsbury-square, London.—Pet. f. Oct. 25.
- THOMAS BOOTH**, Manchester, grocer, Nov. 16 and Dec. 7 at 12, Manchester: Off. Ass. Pott; Sols. Brooks & Co., Ashton-under-Lyne and Manchester.—Pet. f. Oct. 30.
- EDMUND ASHWORTH ACTON**, late of Manchester, subsequently of Preston, and now a prisoner for debt in the Gaol of Belle Vue, Gorton, Lancashire, general commission agent, Nov. 15 and Dec. 6 at 12, Manchester: Off. Ass. Fraser; Sol. Crowther, Manchester.—Pet. f. Oct. 25.
- RICHARD UNTHANK**, Middlesborough, Yorkshire, shoemaker, Nov. 19 and Dec. 10 at 11, Leeds: Off. Ass. Hope; Sols. Cariss & Cudworth, Leeds.—Pet. d. Nov. 1.
- WILLIAM THOMPSON**, Newcastle-upon-Tyne, tailor, Nov. 14 at 12, and Dec. 12 at half-past 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Harle & Co., Newcastle-upon-Tyne, and 20, Southampton-buildings, Chancery-lane, London.—Pet. f. Oct. 29.

## MEETINGS.

*Thomas Lawrence, Wm. Mortimore, and Francis Benjamin Schrader*, St. Mary-axe, London, and Liverpool, leather factors, Nov. 20 at 12, London, pr. d.—*George Arnold and Richard Manlove* the younger, Luton, Bedfordshire, straw-hat manufacturers, Nov. 14 at half-past 1, London, last ex.—*Edward Turnbull*, West Hartlepool, Durham, shipowner, Nov. 14 at half-past 11, Newcastle-upon-Tyne, last ex.—*Mary Ann Wood*, Luton, Bedfordshire, straw-hat manufacturer, Nov. 14 at 11, London, and ac.—*George Johnson*, Durham-place, Hackney-road, Middlesex, and Lower Marsh, Lambeth, Surrey, shoe manufacturer, Nov. 14 at 11, London, and ac.—*Charles Spinks*, Duke-street, Portland-place, Middlesex, bottled beer merchant, Nov. 14 at 11, London, and ac.—*John Julian*, Noble-street, Falcon-square, City, wholesale milliner, Nov. 14 at 11, London, and ac.—*Henry Foot*, Fort-street, Spitalfields, Middlesex, and Sudbury, Suffolk, silk manufacturer, Nov. 14 at 11, London, and ac.—*James Hall*, Monmouth, innkeeper, and Newland, Gloucestershire, brickmaker, Nov. 29 at 11, Bristol, and ac.—*James Evans Pilling*, Tredegar, Monmouthshire, draper, Nov. 29 at 11, Bristol, and ac.—*John Tomkinson*, Liverpool, and Runcorn, Cheshire, stonemason, Nov. 13 at 11, Liverpool, and ac.—*Edward Heathcote*, Rock Ferry, Cheshire, grocer, Nov. 16 at 11, Liverpool, and ac.—*John Tomkinson*, Liverpool, and *Joshua Fletcher Lacey*, Birkenhead, Cheshire, and *Leonard Addison*, Chester, and Liverpool, printers, Nov. 12 at 11, Liverpool, and ac. sep. est. of *J. F. Lacey*; Nov. 13 at 11, and ac. joint est.; Nov. 26 at 11, div. joint est., and div. sep. est. of *J. F. Lacey*.—*Eli Ormrod and Richard Roberts*, Manchester, commission agents, Nov. 23 at 12, Manchester, and ac. joint and sep. ests.; Nov. 30 at 12, div. joint and

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## THE JURIST.

LONDON, NOVEMBER 10, 1860.

HAVING noticed, in an article in our last number, in what cases and in what manner a mortgagee may, under the provisions of stat. 23 & 24 Vict. c. 145, sell the mortgaged hereditaments, we now proceed to notice in what manner a receiver may be appointed under the same act.

The person who is entitled to appoint, or obtain such appointment, may either appoint a person named for that purpose in the deed of charge, or, if no such person is named, may, by writing delivered to the person, or any one of the persons, entitled to the property subject to the charge, or affixed on some conspicuous part of the property, require such last-mentioned person or persons to appoint a fit and proper person as receiver; and if no such appointment be made within ten days after such requisition, then may, in writing, appoint any person he may think fit, (sect. 17). Then follow certain provisions, according to which the receiver is to be deemed the agent of the mortgagor, (sect. 18); is to have certain powers, (sect. 19); to be removeable in certain cases, (sect. 20); is to have a commission, not exceeding 5*l.* per cent., on the gross amount of all money received by him, (sect. 21); and may insure, if so directed by the person entitled to the charge, the property included in it, (sect. 22); and then provision is made, in the usual way, for the application of monies received by such receiver, (sect. 23).

The first question which will arise for the consideration of practitioners is this—whether these provisions in the act conferring certain powers upon mortgagees will render their old forms useless, or whether they ought to insert a declaration, in instruments creating a charge,

excluding the operation of the act, either entirely or to some extent.

In all large transactions we cannot but think any possible saving, by the omission of a few forms, will be so trifling, in comparison with the interests involved, that the usual forms ought in all cases to be adhered to, and the operation of the act entirely excluded.

In smaller transactions some persons may be content with the provisions of the act; but we question whether the use of concise forms would not, in the great majority even of such cases, be preferable if the interests of all parties are duly considered.

In the first place, it must be borne in mind that these statutory powers are only conferred by the act when the subject-matter mortgaged “consists of any hereditaments of any tenure, or any interest therein.” Where any property, therefore, is mortgaged not coming within that description, the usual powers must, if it is intended that they should be exercised, be given by deed.

Moreover, without subjecting the language of this part of the act to that minute criticism to which it is fairly and in many places open, we must observe that we consider the powers granted to the mortgagee (in all cases where the operation of the act is not excluded) to be such as might in many cases be exercised with great oppression and injustice.

The powers of the mortgagee, it will be observed, arise in three events—first, on the non-payment of the principal at a particular time; secondly, on the non-payment of the interest at a particular time; and, thirdly, on the omission to pay a premium of insurance according to contract. These powers are, to sell, to insure, and to appoint a receiver. Thus, if a mortgagor by accident omitted to keep up the insurance upon some insignificant tenement, the mortgagee might sell the whole property, whatever might be its extent or value, and, until

the sale, might insure, and saddle the mortgagor with the expense of a receiver.

In cases where practitioners think it advisable to use their own forms in conferring powers on mortgagees, we think that the operation of the act should be altogether excluded by declaration, inasmuch as by the 32nd section of the act, where there is no such declaration, "if any variations or limitations of any of the powers or incidents, conferred or annexed, are contained in such deed, &c., such powers or incidents shall be exercisable or take effect only subject to such variations or limitations." The inconvenience of determining, from two conflicting instruments, what powers can be exercised, is so obvious as not to require further comment.

Assuming, however, that the principle upon which the act is professed to be founded is unobjectionable—namely, that certain powers may fairly be made incident to certain estates; as, for instance, to that of mortgagees—we think that, as an experiment in the application of the principle, it would have been well to have confined the operation of the act to granting such powers only as are usually by contract granted to the mortgagee. If, for instance, the power of sale only had been made incident in all cases, except where the parties agreed it should not exist, to the estate of the mortgagee, the act would have been, as to this part of it, less open to objection. But the powers to insure property from damage by fire, and to appoint a receiver, are by no means commonly given to mortgagees in ordinary mortgage deeds; to import them, therefore, in all cases, in the absence of contract, into such deeds, will, we believe, take many mortgagors by surprise, and will invest mortgagees with powers which, had mortgagors been consulted, they would never have granted. It is true that, by a legislative fiction, all persons are presumed to know the law, and therefore the contents and effect of the act we are now commenting on; but, in reality, many persons will find that a contract has been made for them by the act of Parliament which they never themselves intended to make. If this be the effect of the act, as we believe it is, at any rate as to the second part, we think that it rather exceeds than falls within the just province of legislation.

### Rebuts.

*Precedents of Pleading in Actions in the Superior Courts of Common Law, with Notes.* By EDWARD BULLEN, Esq., of the Middle Temple, and STEPHEN MARTIN LEAKE, Esq., of the Middle Temple, Barristers-at-Law. [Stevens & Norton, 1860.]

THE Common-law Procedure Acts have materially altered the formal parts of pleadings, stripping them of useless verbiage, and subjecting them to the ordinary rules of English composition. The precedents given in the schedule to the act of 1852 are models of conciseness; every superfluous word, every antiquated fiction, has been swept away; no more does the "abeque hoc" delight the classic ear of pleader, or the giving of colour exercise his subtle genius; the indignant replication, "de injuriâ sua abeque tali causâ," often recoiling upon him who used it, by reason of its superfluous

distinctions, is no longer heard: no more does the defendant vi et armis commit alia enormia contra pacem, nor does he throw himself upon his country, nor is he prepared to verify that which he has been bold enough to allege. The plaintiff does not now "casually lose," nor does the defendant find and convert, twenty bedsteads, twenty beds, and a like quantity of other household furniture: the terrible special demurrer does not disturb the pleader's slumber, or defeat the unhappy suitor. Formerly the parties were desirous of fighting their battle upon paper before the final contest; the declaration was filled with circumstances of most serious aggravation, while the defendant reduced the injury to the smallest possible limits—answering to the crescendo and diminuendo of a more harmonious science. Thus, had the defendant and his dog simply walked across our field, our pleader would have informed him, that with force and arms, and with a large dog, he had broken and entered divers, to wit, three of our closes, and then forced and broken open, broken to pieces, damaged, and spoiled, divers, to wit, three of our gates, of great value, to wit, of the value of 50*l.*, and the locks, staples, and hinges, likewise of great value, and with his feet in walking, and with the feet of his said dog, had trod down, trampled, consumed, prostrated, crushed, damaged, and spoiled our grass, also of great value, and other wrongs to us did, against the peace of our lady the Queen, &c. The defendant would probably in the course of his pleas have answered, that true it was that he did unavoidably, with a little dog, a little trample upon &c. a little of the grass, &c. But all imaginary flights are now restrained, and the barest and shortest statement, provided it be clear and sufficiently comprehensive to include the substantive facts, is the best. While, however, the forms of pleading have been thus curtailed and improved, its principles are unimpaired, and it is still necessary to study it as a science, and to be acquainted with its terms of art and well-approved precedents. It is a great mistake to suppose that any statement of facts, however loose or vague, is sufficient under cover of the Common-law Procedure Acts, and their promises of amendment; much care and consideration are still required in the preparation of pleadings, and for a long time the want has been felt of a book of precedents adapted to the provisions of the Common-law Procedure Acts, and providing for cases arising under other modern statutes and numerous modern decisions. The want is now fully supplied by the book before us, which is a most valuable contribution to this branch of legal science, and will save the practitioner a considerable amount of time and labour. The precedents are not only clear, condensed, and sensible, but they are safe, and may be followed with confidence. The name of Mr. Bullen is of itself a sufficient guarantee for their soundness, and he appears to have been most ably assisted by Mr. Leake.

A valuable part of the book consists of the dissertations, in the shape of notes, upon the law of each subject of the precedents, which bring up the authorities to the latest date, and in the most convenient form for reference. Great industry, as well as judgment and discrimination, has been bestowed upon the whole of the work, which will be found of daily use, not merely in the pleader's chambers, but also as a court and circuit companion.

The Lord Chief Justice of England has appointed Mr. James Hemp, deputy clerk of assize on the Oxford Circuit, and one of the clerks of arraigns at the Central Criminal Court, to the clerkship of the Court for the Consideration of Crown Cases Reserved, vacant by the death of the late Robert Marshall Straight, Esq.

## ORDER IN COUNCIL UNDER THE FOREIGN JURISDICTION ACT.

(Concluded from p. 387).

### IV.—JURISDICTION AND POWERS OF THE CONSULAR COURTS.

#### "(2). In Civil Matters.

"22. The Supreme Consular Court and its several officers, and every other consular court, shall, as far as there may be proper opportunity, promote reconciliation, and encourage and facilitate the settlement in an amicable way, and without recourse being had to litigation, of matters in difference between persons over whom the Court has jurisdiction.

"23. The supreme and every other consular court may promote reconciliation, and encourage and facilitate the settlement in an amicable way of any suit or proceeding pending before it.

"24. The supreme or other consular court may, with the consent of the parties, refer to arbitration the final determination of any suit or proceeding pending before it, or of all matters in difference between the parties to the suit or proceeding, on such terms, and with such directions as to appointment of an arbitrator and other things, as may seem fit; and may, if it thinks fit, take from the parties, or any of them, security to abide by the result of the reference.

"In any such case the award shall be final and conclusive.

"26. The supreme and every other consular court shall be a court of law and of equity; and (subject to the other provisions of the present Order) shall have and may exercise all jurisdiction, power, and authority, legal, equitable, or other, which any consul of her Majesty by custom has or may exercise in the dominions of the Sublime Ottoman Porte.

"27. The supreme and every other consular court shall be a court of bankruptcy and insolvency, and as such shall, as far as circumstances will admit, have, each for and within its own district, with respect to British subjects and to their debtors and creditors, being British subjects, or being subjects of the Sublime Ottoman Porte, or subjects or citizens of any other State, and submitting to the jurisdiction of the Court, all such jurisdiction as for the time being belongs to the Court of Bankruptcy, the Court for the Relief of Insolvent Debtors, and the County Courts respectively in England, or to such other judicial authority or authorities as for the time being has or have jurisdiction in England in matters of bankruptcy, insolvency, or protection.

"28. The Supreme Consular Court shall, as far as circumstances will admit, have in itself exclusively, for and within the dominions of the Sublime Ottoman Porte, with respect to British subjects, all such jurisdiction relative to the custody and management of the persons and estates of idiots, lunatics, and persons of unsound mind, as for the time being belongs to the Lord Chancellor or other person or persons in England intrusted by virtue of her Majesty's sign-manual with the care and commitment of the custody of the persons and estates of persons found by inquisition, in England, idiot, lunatic, or of unsound mind.

"29. The Supreme Consular Court shall be a Court for Matrimonial Causes, and as such shall, as far as circumstances will admit, have in itself exclusively, for and within the dominions of the Sublime Ottoman Porte, with respect to British subjects, all such jurisdiction, except the jurisdiction relative to dissolution or nullity or jactitation of marriage, as for the time being belongs to the Court for Divorce and Matrimonial Causes in England.

"30. The Supreme Consular Court shall be a Court of Probate, and as such shall, as far as circumstances will admit, have, for and within the dominions of the Sublime Ottoman Porte, with respect to the property of British subjects having at the time of death a fixed place of abode within such dominions, all such jurisdiction as for the time being belongs to her Majesty's Court of Probate in England.

"Provided always, that a provincial consular court shall have power to grant probate or administration where there is no contention as to the right to the grant, and it is proved on oath that the deceased had at the time of his death a fixed place of abode within the jurisdiction of the particular court.

"Every probate or administration granted by a provincial consular court shall have effect over all the property of the deceased within the dominions of the Sublime Ottoman Porte, and shall under all circumstances effectually discharge all persons paying to or dealing with an executor or administrator thereunder, notwithstanding that any defect may afterwards appear in the grant; and no such grant shall be impeached by reason only that the deceased had not at the time of his death a fixed place of abode within the particular jurisdiction.

#### "(3). In Criminal Matters.

"33. The supreme and every other consular court shall have power and authority to cause to be apprehended, and brought before it, any British subject being within the district of the Court, and charged with having committed any crime or offence within the dominions of the Sublime Ottoman Porte, or on board any British vessel being within the same dominions, and to deal with the accused according to the jurisdiction of the Court, and in conformity with the provisions of the present Order; or, where the crime or offence is triable, and is to be tried, in England, to take the preliminary examination, and to commit the accused for trial, and cause or allow him to be taken to England.

"34. The supreme and every other consular court may promote reconciliation, and encourage and facilitate the settlement, in an amicable way, of proceedings for assault, or any other offence of a private or personal character, on terms of payment of compensation, or other terms that may seem reasonable or expedient, and may thereupon order the proceedings to be stayed.

"35. The Supreme Consular Court shall have power to impose the punishment of imprisonment for any term not exceeding twenty years, with or without hard labour, and with or without a fine not exceeding 500*l.* sterling, or the punishment of a fine alone not exceeding 500*l.* sterling.

"36. All crimes which in England are capital shall be tried by the judge of the Supreme Consular Court, with a jury.

"Other crimes and offences, above the degree of misdemeanour, tried before the judge or any officer of the Supreme Consular Court, and not heard and determined in a summary way, shall be tried by a jury.

"Any crime or offence tried before the judge or any officer of the Supreme Consular Court may be tried by a jury, where the judge or other officer so directs.

"Subject to the foregoing provisions, such classes of cases within the original jurisdiction of the Supreme Consular Court as the judge, having regard to the law and practice existing in England, may from time to time direct, shall be heard and determined in a summary way.

"40. If any British subject shall be guilty of publicly deriding, mocking, or insulting any religion established or observed within the dominions of the Sub-

lime Ottoman Porte—or of publicly offering any insult to any religious service, feast, or ceremony established or kept in any part of such dominions, or to any place of worship, tomb, or sanctuary belonging to any such religion, or to the ministers or professors thereof—or shall wilfully commit any act tending to bring any such religion, or its ceremonies, mode of worship, or observances, into ridicule or contempt, and thereby to provoke a breach of the public peace—every such British subject shall, on conviction thereof, be liable to punishment (in the discretion of the Court) by imprisonment for not more than two years, with or without hard labour, and with or without a fine of not more than 100*l.* sterling, or a fine of not more than 100*l.* sterling alone.

\* \* \* \* \*

**"V.—MISCELLANEOUS PROVISIONS.**

"51. Where a consular court proceeds to hear and determine any case, civil or criminal, with assessors, the Court shall nominate and summon as assessors not less than two and not more than four indifferent British subjects of good repute resident in the district of the Court.

"Where, nevertheless, by reason of local circumstances, the Court is able to obtain the presence of one fit person only as assessor, the Court may sit with him alone as assessor; and where, for like reasons, it is not able to obtain the presence of any fit person as assessor, it may sit without an assessor; but in every such case the Court shall record in the minutes of proceedings its reasons for sitting with one assessor only, or without an assessor.

"An assessor shall not have a voice or vote in the decision of the Court in any case, civil or criminal, but an assessor dissenting in a civil case from any decision of the Court, or in a criminal case from any decision of the Court, or the conviction or the amount of punishment awarded, may record in the minutes of proceedings his dissent, and the grounds thereof, and an assessor dissenting shall be entitled to receive gratis a certified copy of the minutes."

William Burbidge Richardson, Gent., of the Comptroller's Office, Guildhall, in the city of London, and of No. 28, Queen-street, Cheapside, has been appointed one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women, in and for the city of London, also in and for the city and liberties of Westminster, and also in and for the county of Middlesex.

*sep. esta.*—*Christopher Langridge* and *Joseph Midgley*, Manchester, drysalters, Nov. 21 at 12, Manchester, aud. ac.; Nov. 28 at 12, div.—*David Halstead*, Manchester, worsted dyer, Nov. 13 at 12, Manchester, aud. ac.; Nov. 27 at 12, div.—*James Osborn Kent*, Waterloo-place, Limehouse, Middlesex, draper, Nov. 26 at 12, London, div.

**CERTIFICATES.**

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*Thomas Robert Lewis*, Gould-square, Crutched-friars, City, merchant, Nov. 26 at 1, London.—*Mary Ann Wood*, Luton, Bedfordshire, straw-hat manufacturer, Nov. 26 at 12, London.—*John Yokins* and *William Hurd*, Jubilee-place, Chelsea, Middlesex, horticultural builders, Nov. 26 at half-past 11, London.—*Wm. Long*, Newport, Monmouthshire, innkeeper, Dec. 4 at 11, Bristol.—*E. Wetherstone*, Cheltenham, Gloucestershire, plumber, Nov. 27 at 11, Bristol.—*Saving Lucknuck*, White-horse-yard, Liverpool-road, Islington, Middlesex, livery-stable keeper, Nov. 24 at 12, London.—*Daniel Jones*, Wrexham, Denbighshire, coachbuilder, Nov. 23 at 12, Liverpool.—*George Craven*, Liverpool, merchant, Nov. 23 at 11, Liverpool.—*John Moorhouse Andrew*, Dewsbury,

Yorkshire, innkeeper, Nov. 26 at 11, Leeds.—*Fred. Garfit*, Brigg and Scawby, Lincolnshire, scrivener, Nov. 26 at 12, Kingston-upon-Hull.—*Benjamin Jones*, West Bromwich, Staffordshire, corn factor, Nov. 23 at 11, Birmingham.—*Thomas Price*, Evesham, Staffordshire, market gardener, Nov. 23 at 11, Birmingham.

*To be granted, unless an Appeal be duly entered.*

*John Hart*, Crown-street, Finsbury, Middlesex, boot manufacturer.—*William Goodall Gibson*, Godalming, Surrey, tanner.—*James Pitcher*, Hampstead-road, Middlesex, leather seller.—*Thomas Edward Wright*, Belmont-place, Wandsworth-road, Surrey, grocer.—*James Evans Pilling*, Tredegar, Monmouthshire, draper.—*Gustave Winter*, Milk-street, City, warehouseman.—*Stephen Lampard*, Portsea, Hampshire, plumber.—*William Henry Edmonds*, Wroughton, Wiltshire, horse dealer.—*Richard Limbrick*, Golden Valley Mill, Gloucestershire, miller.—*Charles Le Batt*, Exeter, messman.—*George Rawle*, Porlock, Somersetshire, tanner.—*Jacob Alexander Alexander*, Exeter, china dealer.

**PETITION ANNULLED.**

*Thomas Tolson*, Ossett and Dewsbury, Yorkshire, carpet manufacturer.

**SCOTCH SEQUESTRATIONS.**

*John Ednie*, Leven, flax spinner.—*Alexander Hendry*, Port Glasgow, baker.—*James Birrell*, Kirkcaldy, merchant.—*Thomas Ward*, Peebles, wine merchant.

**TUESDAY, Nov. 6.**

**BANKRUPTS.**

**GEORGE STOKES**, Snow-hill, London, provision dealer, Nov. 16 at 11, and Dec. 20 at 12, London: Off. Ass. Johnson; Sols. Wright & Bonner, London-street, Fenchurch-street.—Pet. f. Nov. 3.

**WILLIAM WILCOX BAKER** and **HENRY SENDALL**, Old Bailey, City, manufacturing stationers, Nov. 16 at half-past 12, and Dec. 20 at 1, London: Off. Ass. Bell; Sol. Brutton, 27, Basinghall-street.—Pet. f. Nov. 5.

**FREDERICK RANDALL**, Whitechapel-road, Middlesex, coachbuilder, Nov. 20 at 3, and Dec. 18 at 12, London: Off. Ass. Lee; Sols. J. & J. Hopgood, 14, King William-street, Strand.—Pet. f. Nov. 6.

**WILLIAM POWELL**, Newport, Monmouthshire, linen-draper, Nov. 19 and Dec. 18 at 11, Bristol: Off. Ass. Miller; Sols. Whittington & Gribble, Bristol; Reed, Gresham-street, London.—Pet. f. Nov. 2.

**GEORGE MARK PALMER DANIEL**, Camelford, Cornwall, ironmonger, Nov. 20 and Dec. 19 at 12, Exeter: Off. Ass. Hirtzel; Sols. Rowe, Stratton, Cornwall; Laidman and Fryer, Exeter.—Pet. f. Oct. 27.

**WILLIAM LEE** and **HENRY SMITH**, Batley, Yorkshire, woollen-cloth manufacturers, Nov. 16 and Dec. 14 at 11, Leeds: Off. Ass. Young; Sols. Iveson, Heckmondwike; Bond & Barwick, Leeds.—Pet. d. Oct. 16.

**WILLIAM HENRY SIMS**, Winster, Derbyshire, apothecary, Nov. 17 and Dec. 16 at 10, Sheffield: Off. Ass. Brewin; Sol. Stone, Wirksworth, Derbyshire.—Pet. f. Oct. 27.

**JAMES NAPIER**, Rhyl, Flintshire, shipowner, Nov. 16 and Dec. 10 at 11, Liverpool: Off. Ass. Morgan; Sols. Evans & Co., Liverpool; Williams, Rhyl, Flintshire.—Pet. f. Oct. 24.

**THOMAS WILLIAM LAURIE**, Bishop Auckland, Durham, innkeeper, (trading under the name of Thomas Laurie, and previously trading under the name of William Laurie), Nov. 14 at 11, and Dec. 19 at half-past 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Brignall, Durham; Hartley, 14, Gray's-inn-square, London.—Pet. f. Nov. 1.

**MEETINGS.**

*William Daniel Hoad*, Rye, Sussex, builder, Nov. 17 at 11, London, pr. d.—*Thomas Lee*, George-yard, Lombard-street, London, and Birmingham, merchant, Nov. 29 at 2, London, last ex.—*William Higgins Merrick*, Halesowen, Worcestershire, innkeeper, Nov. 19 at 11, Birmingham, last ex.—*Frederick August Grose*, Newcastle-upon-Tyne, furniture dealer, Nov. 23 at 1, Newcastle-upon-Tyne, last ex.—*Joshua Hyams*, Spencer-street, Clerkenwell, Middlesex,

match manufacturer, Nov. 30 at half-past 1, London, and ac.—*William Pickford*, Fenchurch-street, City, merchant, Nov. 27 at 11, London, and ac.—*Horatio Nelson Hornby*, Little Tower-street, London, and Nine Elms, Vauxhall, Surrey, common carrier, Nov. 17 (and not Oct. 5, as previously advertised) at 11, London, and ac.—*Nicholas Coressy* and *Paul Maximos*, Threadneedle-street, City, merchants, Nov. 17 at 11, London, and ac.—*Wm. Pitt*, Bishopsgate-street Without, City, hosier, Nov. 17 at 11, London, and ac.—*Abraham Jacobs*, *John Jacobs*, and *Henry Jacobs*, Crown-street, Finsbury, merchants, Nov. 19 at 11, London, and ac.—*George Montagu Evans*, Farnham, Surrey, money scrivener, Nov. 19 at 11, London, and ac.—*Joseph E. Davies*, Newport, Monmouthshire, innkeeper, Nov. 23 at 11, Bristol, and ac.—*James Wilson Jeffries* and *John Meek*, Liverpool, merchants, Nov. 23 at 11, Liverpool, and ac.; Nov. 27 at 11, div.—*Edward Brown*, Ditton, near Warrington, Lancashire, brewer, Nov. 16 at 11, Liverpool, and ac.; Dec. 3 at 11, div.—*Geo. Fielder*, Dobb Cross, Saddleworth, Yorkshire, woolstapler, Nov. 16 at 12, Manchester, and ac.—*John Wellington Welch*, Manchester, warp sizer, Nov. 22 at 12, Manchester, and ac.; Nov. 29 at 12, div.—*Thomas Law Holdick*, Hinckley, Leicestershire, ironmonger, Nov. 23 at 11, Birmingham, and ac.; Nov. 29 at 11, div.—*J. Williams*, Tipton, Staffordshire, chemist, Dec. 7 at 11, Birmingham, and ac.—*John Youll*, Burton-on-Trent, Staffordshire, brewer, Nov. 28 at 11, Birmingham, and ac.—*Henry Kierose* and *James Shaw*, Kingston-upon-Hull, cab proprietors, Nov. 28 at 12, Kingston-upon-Hull, and ac. and div. joint est., and and ac. and div. sep. est. of *James Shaw*.—*Bennett Barnett*, Burlington-gardens, Bond-street, Middlesex, dealer in pictures, Nov. 27 at 11, London, div.—*Reuben Newton*, Derby, silk throwster, Nov. 29 at 11, Nottingham, and ac. and div.—*John G. Shodden*, Birmingham, woollendrapier, Nov. 28 at 11, Birmingham, and ac. and div.—*Wm. Ramage*, Platts, near Stourbridge, Worcestershire, ironfounder, Dec. 14 at 11, Birmingham, div.—*Joseph Callow*, Coventry, ribbon manufacturer, Dec. 14 at 11, Birmingham, div.—*Aaron Jennens* and *John Bettridge*, Birmingham, papier maché manufacturers, Nov. 28 at 11, Birmingham, div.—*Edward Smith*, Birmingham, printer, Nov. 28 at 11, Birmingham, div.—*John Hampson*, Wrexham, Denbighshire, grocer, Nov. 27 at 11, Liverpool, div.—*Joseph Faulkner*, Liverpool, baker, Nov. 27 at 11, Liverpool, div.—*Thomas Lilley*, North Shields, Northumberland, merchant tailor, Nov. 28 at half-past 12, Newcastle-upon-Tyne, div.

#### CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.

*Wm. Pickford*, Fenchurch-street, City, dealer in artificial manures, Nov. 27 at 11, London.—*James Nutt*, Leadenhall-street, City, jeweller, Nov. 28 at half-past 11, London.—*Thomas Laurence* and *William Mortimore*, St. Mary-axe, City, leather factors, Nov. 28 at 11, London.—*George Vickery*, *Wakefield* and *Robert Birt*, Swansea, Glamorganshire, hotel keepers, Dec. 4 at 11, Bristol.—*Thomas Bell*, Urpeth Mill Chester-le-street, Durham, miller, Nov. 28 at 12, Newcastle-upon-Tyne.—*Robert Stone*, Carre Abbas, Dorsetshire, innkeeper, Nov. 28 at 1, Exeter.—*George Taylor*, West Bromwich, Staffordshire, timber merchant, Dec. 7 at 11, Birmingham.—*Wm. Woolley*, Tipton, Staffordshire, boiler maker, Dec. 10 at 11, Birmingham.—*Reuben Newton*, Derby, silk throwster, Jan. 15 at half-past 11, Nottingham.—*Samuel Beeson*, Liverpool, coal merchant, Nov. 27 at half-past 11, Liverpool.—*Wm. M. Townsend*, Liverpool, licensed victualler, Nov. 27 at 11, Liverpool.

To be granted, unless an Appeal be duly entered.

*Thomas H. Harper*, Abingdon, Berkshire, tobacconist.—*John W. Swann*, Manchester, India rubber manufacturer.—*John Legge*, Walsall, Staffordshire, iron manufacturer.—*Michael H. Robinson*, Wolverhampton, Staffordshire, woollendrapier.—*John Page*, Tong Norton, Tong, Shropshire, licensed victualler.—*Charles Thos. Collins*, Worcester, and Fenchurch-street, City, wine merchant.—*James Chilton*, Stone, Staffordshire, shoe manufacturer.—*Nathaniel Smith* the younger, Horeham, Martley, Worcestershire, hotel keeper.—*Francis Ward*, Nottingham, victualler.—*Samuel N. Haynes*, Leek, Staffordshire, grocer.—*Samuel Bennett*, Nottingham, tailor.—*John Martin*, Nottingham, clothier.—

*Henry Dunnington*, Nottingham, glove cloth manufacturer.—*John C. Leach*, Birmingham, leather seller.

#### PETITIONS ANNULLED.

*Wm. Richards*, Upper North-place, Gray's-inn-road, Middlesex, builder.—*Laban Andrews*, Walls, Norfolk, grocer.

#### PARTNERSHIP DISSOLVED.

*John Morgan* and *William Robinson Smith*, Merthyr Tydfil and Aberdare, Glamorganshire, attornies and solicitors.

#### SCOTCH SEQUESTRATIONS.

*John Low*, Latch, Brechin, Forfarshire, cowfeeder.—*James Stevenson*, Bishopbriggs, near Glasgow, quarry master.—*Wm. Jack*, jun., Newarthill, Bothwell, Lanarkshire, spirit dealer.—*Christie & Findlater*, Edinburgh, clothiers.

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# The Jurist

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NOVEMBER 17, 1860.

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## GAZETTES.—FRIDAY, NOV. 9.

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**JOHN BAKER**, Heathfield, Sussex, tanner, Nov. 21 at 2, and Dec. 19 at half-past 12, London: Off. Ass. Stansfeld; Sols. Murray & Co., 11, Birch-in-lane, London.—Pet. f. Nov. 8.

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**JAMES LLEWELLYN**, Hereford, saddler, Nov. 19 and Dec. 10 at 11, Birmingham: Off. Ass. Whitmore; Sols. Bodenham & James, and Hodgson & Allen, Birmingham.—Pet. d. Nov. 3.

**GEORGE CROWTHER RYLAND**, Birmingham, coal merchant, Nov. 19 and Dec. 10 at 11, Birmingham: Off. Ass. Whitmore; Sols. James & Knight, Birmingham.—Pet. d. Nov. 7.

**THOMAS COLTMAN**, Coventry, plumber, Nov. 22 and Dec. 14 at 11, Birmingham: Off. Ass. Kinnear; Sol. Reeves, Birmingham.—Pet. d. Nov. 6.

**RICHARD STARKEY**, Stroud, Gloucestershire, draper, Nov. 20 and Dec. 31 at 11, Bristol: Off. Ass. Acraman; Sols. Whittington & Gribble, Bristol; Davidson & Co., 22, Basinghall-street, London.—Pet. d. Oct. 31.

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## MEETINGS.

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*William M. Tinsman*, Liverpool, victualler, Nov. 23 at 11, Liverpool, and ac.; Nov. 30 at 11, div.—*Frederick August Gees*, Newcastle-upon-Tyne, furniture dealer, Nov. 20 at half-past 12, Newcastle-upon-Tyne, and ac.—*Solomon Clegg* and *James Fox*, Newcastle-upon-Tyne, woollen manufacturers, Nov. 22 at 12, Newcastle-upon-Tyne, and ac.—*John Wesley Soam*, Manchester, India-rubber manufacturer, Nov. 21 at 12, Manchester, and ac.—*John Whitaker*, Bridge End, near Newchurch, Rossendale, Lancashire, cotton manufacturer, Nov. 21 at 12, Manchester, and ac.—*Wm. Parrott*, Lisie-street, Leicester-square, Middlesex, boot maker, Dec. 1 at 12, London, div.—*Thomas Porter*, Beauvoir-place, King'sland, Middlesex, chair maker, Dec. 4 at 12, London, div.—*James Berry Blackburn*, Norwich, currier, Dec. 1 at 12, London, div.—*David Stimpson*, Hatton-garden, Middlesex, goldsmith, Dec. 1 at 1, London, div.—*Thomas Harrison*, Henley-upon-Thames, Oxfordshire, tailor, Dec. 1 at 12, London, div.—*John M'Alpine* the younger, Newington-road, Ball's-pond, Middlesex, bleacher, Nov. 30 at 12, London, div.—*John Overbury*, Frederick's-place, Old Jewry, City, woollen warehouseman, Nov. 30 at 1, London, fin. div.—*George Reeves* the younger, Cheltenham, Gloucestershire, livery-stable keeper, Dec. 6 at 11, Bristol, div.—*Charles Beach*, Devizes, Wiltshire, hoiser, Dec. 13 at 11, Bristol, div.—*John M'Alpine*, Cheltenham, Gloucestershire, ironmonger, Dec. 13 at 11, Bristol, div.

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## THE JURIST.

LONDON, NOVEMBER 17, 1860.

THE case of *Reg. v. Davidson*, decided at the Central Criminal Court during the October Session, merits attention. The defendant, who was indicted for an indecent assault, pleaded that he had formerly, before another tribunal, been put on his trial for the same offence, on which occasion the jury were improperly, and without sufficient grounds under the circumstances for that course, discharged by the presiding judge from giving a verdict. To this plea there was a replication, that on that occasion there was no likelihood of the jury agreeing upon a verdict; that they had been locked up for several hours; and that the judge felt it necessary in his discretion to discharge them. To this replication the defendant demurred; and his counsel contended that the plea was good, as the defendant had once been in jeopardy for the offence with which he was charged; that the discharge of the jury, without the consent of the accused, and without sufficient grounds to warrant such a course, was tantamount to an acquittal. The Court, however; consisting of Pollock, C. B., Martin, B., and Hill, J.; held the plea bad; that the propriety of discharging a jury from giving a verdict was entirely a question for the discretion of the presiding judge; and although possibly an indiscreet exercise of it might form ground for an impeachment, it was none for a writ of error, nor for a plea of autrefois acquit to a future indictment for the same offence. Martin, B., and Hill, J., however, intimated that the power of the judge at a trial to discharge a jury ought not to be exercised except upon some overwhelming necessity, especially when objected to. The defendant was tried accordingly.

In the actual state of the law and practice, this case is worthy of notice, not as introducing any new principle, but as illustrating the existing practice, and pointing attention to a growing evil in it. Whether the law is right in exacting unanimity in the verdicts of juries has been much mooted of late years, and in the session of Parliament of 1849 a bill for its partial abolition was brought into the House of Lords by Lord Campbell, which was rejected by a large majority—most rightly, as we believe. It is not our intention to discuss the general question on the present occasion, and merely desire to advert to one of the arguments commonly used against the existing state of things. It is said that the rule requiring unanimity has given birth to the practice of locking up juries, and withholding from them refreshment and fire during their deliberations—a practice which has frequently been denounced as absurd and barbarous, and made the subject of much ridicule and satire. To this it is replied, that whatever might have been urged against it as worked in former times, its evils have been removed in modern ones, for it is now settled law that the presiding judge may discharge a jury where there is no likelihood of their agreeing to a verdict. (See Arch. Crim. Prac. 148, 149, 12th ed.) The decision in *Reg. v. Davidson* confirms this, and is one in the correctness of which, we apprehend, every lawyer will agree. But this is a power which ought to be exercised with the greatest possible discretion; and in that case Martin, B., and Hill, J., intimate as much. We wish we could say that this principle has always been adhered to; on the contrary, a practice has grown up of discharging juries after a comparatively short deliberation, on little or no inquiry, and sometimes on their mere statement that they are not likely to agree—a practice which defeats one of the first objects of the law in requiring an unanimous verdict—

namely, the securing the fullest discussion by the jurors of the questions submitted to their consideration.

Our readers are aware that in these days the trial by jury in criminal cases has been introduced into the laws of many countries on the continent of Europe. In all of them, however, with we believe only one exception, the verdict is given by majority. That exception is to be found in the German State of Brunswick, in which the verdict must be unanimous, as among us; but it is provided that the jury are to be discharged if they cannot agree on a verdict after *twenty-four* hours' deliberation—a period which we presume to have been adopted as being the length of one natural day; and, according to the authority of Professor Mittemaier, the system has been found to work well. (See a paper presented by him to the French Academy in 1854, intitled "Memoire sur les Progrès de la Législation Allemande en Matière de Procédure Criminelle, et sur les Expériences faites dans les Années 1848-1853"). The Common-law Commissioners of 1853 also recommend, that if at the end of *twelve* hours' deliberation the jury do not agree, they should be discharged, unless they unanimously desire further time. (See their Second Report, p. 8). But there is this objection to defining *any* time by law—that a corrupt or obstinate jurymen could always defeat justice by carrying on a factious and harassing disputation with his fellows until the allotted time had expired. Our system, we make no doubt, is the true one, but it requires to be worked judiciously in the spirit of the law—the judge should keep the jury in deliberation for a very long time, he should use all legitimate means to secure an unanimous verdict, and should never discharge a jury from giving one until it is obvious to all common understanding that the doing so is matter of necessity, and that any further attempt to obtain it would be alike useless, unjust, and dangerous.

Before dismissing the subject we must advert to an improvement which has taken place in modern times. The rule of law is imperative, that, except in case of illness, the jury are to have neither food nor fire during their *deliberation*. The policy of the latter part of this rule seems questionable; but the former appears to have been established by our ancestors, with the double object of impressing on the jury that they are met for business of the most important kind, which should be dispatched with energy and single-mindedness, and that the jury-box is not the place for the display of subtlety, captiousness, or overbearing conduct; and also to prevent intemperance in eating or drinking—the sure forerunner of erroneous and scandalous decision. Still there can be little doubt that in ancient times, and occasionally in modern too, the practice was driven to extremity; so much so, that the Common-law Commissioners of 1853 (Second Report, *ubi sup.*) recommended its abolition. This proposition was not adopted by the Legislature; but in several recent cases the jury have been allowed to take refreshment when the trial is drawing to a close, during the trial—a judicious practice, which, if more frequently resorted to, would probably secure all the advantages contemplated by our ancestors when they established the rule prohibiting refreshment to the jury during deliberation,

without the corresponding inconveniences which have occasionally led to absurdity, and exposed the system to obloquy and ridicule.

## REGULA GENERALIS.

ORDER OF COURT—August 23, 1860.

THE Right Hon. JOHN LORD CAMPBELL, Lord High Chancellor of Great Britain, by and with the advice and assistance of the Right Hon. Sir JOHN ROMILLY, Master of the Rolls, the Right Hon. the Lord Justice Sir JAMES LEWIS KNIGHT BRUCE, the Right Hon. the Lord Justice Sir GEORGE JAMES TURNER, the Hon. the Vice-Chancellor Sir RICHARD TORIN KINDERSLEY, the Hon. the Vice-Chancellor Sir JOHN STUART, and the Hon. the Vice-Chancellor Sir WILLIAM PAGE WOOD, doth hereby, in pursuance of an act passed in the 15 & 16 Vict., intitled "An Act to abolish the Office of Master in Ordinary of the High Court of Chancery, and to make Provision for the more speedy and efficient Despatch of Business in the said Court," and in pursuance and execution of all powers enabling him in that behalf, order and direct as follows:—

1. Richard Richards, Esq., William Henry Tinney, Esq., and Joseph Humphry, Esq., the three remaining Masters in Ordinary of the said court, shall be, and they are hereby, released from their duties as such Masters as aforesaid, as from the 23rd August instant.
2. The matters of the suitors of the High Court of Chancery, and all causes, matters, and things which stand referred to any of the Masters in Ordinary of the said court, under any order made by the Lord Chancellor or the Lords Justices of Appeal for the time being, shall be referred to the Master of the Rolls, and shall be proceeded with and prosecuted before him.
3. All other causes, matters, and things now depending before the said Masters shall be proceeded with and prosecuted before the respective judges of the said court by whom, or by whose predecessors respectively, the orders referring such causes, matters, and things to the said Masters were respectively made.

CAMPBELL, C.  
JOHN ROMILLY, M. R.  
J. L. KNIGHT BRUCE, L. J.  
G. J. TURNER, L. J.  
RICH. T. KINDERSLEY, V. C.  
JOHN STUART, V. C.  
W. P. WOOD, V. C.

## PUBLIC EXAMINATION OF STUDENTS.

MICHAELMAS TERM, 1860.

At a public examination of the students of the Inns of Court, held at Lincoln's Inn Hall, on the 30th and 31st October, and 1st November, 1860, the Council of Legal Education awarded to—

William Willis, Esq., student of the Inner Temple, a studentship of fifty guineas per annum, to continue for a period of three years.

Robert Daniel, Esq., student of the Middle Temple, a certificate of honour of the first class.

Andrew Thomson, Esq., student of the Inner Temple;  
Thomas Maguire, Esq., student of Lincoln's Inn;  
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By order of the Council,  
(Signed) RICHARD BETHELL, Chairman.

Council Chamber, Lincoln's Inn,  
November 9, 1880.

## COURT OF QUEEN'S BENCH.

### NEW TRIALS MOVED IN MICHAELMAS TERM.

<i>Midd.</i> —Saward v. Walkden	<i>Oxford</i> —Gardner v. Harrop
" Mackley v. Pattenden	<i>Worcester</i> —Anderson v. Mid-
<i>Land.</i> —Lane & ors. v. Tindal	land Railway
" Paterson v. Harris	Co.
" Havill v. Hamber	<i>Glo'ster</i> —Bennett v. White
" Tamvaco v. Lucas	<i>York</i> —Reg. v. Leatham
" Somes & ors. v. Ford	" Same v. Inhabitants of
" Lourie v. Parker	South Crossland, &c.
" Lane v. Seymour	" Same v. Bradley
" Pow v. Davis	" Same v. Boyes
<i>Essex</i> —Dickinson v. Lano	" Laverack v. Johnson
" Scott v. Sykes	<i>Northland</i> —Gibson v. Chater
<i>Sussex</i> —Stevens v. Austin	<i>Liverp.</i> —Mayer v. Spence
" Seaden v. Banks	" Same v. Firth & ors.
<i>Surrey</i> —Moody v. London	<i>Glamorgan</i> —Jones v. Jones
Brighton & South	<i>Chester</i> —Stockport Water-
Coast Railway Co.	works Co. v. Turner
" Ogle v. O'Flynn	& ors.
" Goff v. Great North-	<i>Hants</i> —Pennell v. Logan
ern Railway Co.	<i>Wilts</i> —Scammell v. Glass
<i>Leicest.</i> —Packer v. Mee	<i>Devon</i> —Snow v. Bristol and
<i>Derby</i> —Marples v. Hartley	Exeter Railway Co.

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**JURIDICAL SOCIETY.**—The first meeting of the present season was held on Monday last, the 12th instant, at No. 4, St. Martin's-place, Trafalgar-square, the Attorney-General in the chair. A paper was read by Mr. Walker Marshall, intitled "Is a judicial tribunal, either of the last resort or otherwise, bound by the principles laid down by itself on previous occasions?" The meeting was addressed by the chairman, Mr. Willcock, Q. C., Mr. Daniel, Q. C., Mr. C. Clark, and Mr. E. Webster.

#### SCOTCH SEQUESTRATIONS.

A. Rae & Co., Haddington, drapers.—John Jamieson, Dundee, merchant.

TUESDAY, Nov. 13.

#### BANKRUPTS.

THOMAS JOHN NICKS, Worship-street, Finsbury-square, Middlesex, Russia mat merchant, Nov. 22 at 12, and Dec. 27 at 1, London: Off. Ass. Bell; Sol. Sorrell, 19, Mark-lane.—Pet. f. Nov. 9.  
THOMAS NIXON, Stoke-upon-Trent, Staffordshire, shoemaker, Nov. 29 and Dec. 21 at 11, Birmingham: Off. Ass. Kinnear; Sol. Smith, Birmingham.—Pet. d. Nov. 12.

MARK FOTHERGILL, Upper Thames-street, City, chemical manure merchant, Nov. 27 at half-past 12, and Dec. 18 at 1, London: Off. Ass. Edwards; Sols. Chidley, 10, Basinghall-street; Mayhew, 11, Argyll-place.—Pet. f. Nov. 6.

HENRY BIGGS, Markyate-street, Hertfordshire, grocer, Nov. 23 and Dec. 27 at half-past 11, London: Off. Ass. Cannan; Sols. J. & J. H. Linklater & Co., 7, Walbrook.—Pet. f. Aug. 11.

THOMAS WILLIAMS, Newport, Monmouthshire, printer, Nov. 26 and Dec. 31 at 11, Bristol: Off. Ass. Miller; Sols. Bevan & Co., Bristol.—Pet. f. Nov. 12.

EDWARD ROBINSON, Sheepridge, Huddersfield, Yorkshire, woollen manufacturer, Nov. 23 and Dec. 21 at 11, Leeds: Off. Ass. Young; Sols. Bond & Barwick, Leeds.—Pet. d. and f. Nov. 7.

WILLIAM TWEEDIE, Liverpool, oilman, Nov. 22 at 12, and Dec. 14 at 11, Liverpool: Off. Ass. Cazenove; Sols. Gregory & Gregory, Liverpool.—Pet. f. Nov. 6.

JOHN JOHNSON, RICHARD CLARKSON, and FREDERICK FURNES, Ashton-under-Lyne, Lancashire, tailors, Nov. 30 and Dec. 20 at 12, Manchester: Off. Ass. Heruman; Sol. Tox, Ashton-under-Lyne.—Pet. f. Nov. 8.

GEORGE RITCHIE, Newcastle-upon-Tyne, grocer, Nov. 20 at 12, and Dec. 19 at half-past 11, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Hoyle, Newcastle-upon-Tyne; Matthews & Co., 102, Leadenhall-street, London.—Pet. f. Nov. 6.

#### MEETINGS.

James Sherry, Portsea, Southampton, shoemaker, Dec. 8 at 11, London, and ac. and div.—Edgar Robert Ramage, Bond-court, Walbrook, and Upper Thames-street, London, and Gloucester-cottage, Peckham, Surrey, wine cooper, Nov. 30 at half-past 12, London, and ac.—Thomas Laurence, William Mortimore, and Francis Benjamin Schrader, St. Mary-axe, London, and Liverpool, leather factors, Nov. 28 at 11, London, and ac. joint and sep. esta.—Joseph Witherpoon, Cheltenham, Gloucestershire, draper, Dec. 13 at 11, Bristol, and ac.—John Price, Abertillery, Aberystwith, Monmouthshire, draper, Dec. 6 at 11, Bristol, and ac.—T. Lilley, North Shields, Northumberland, merchant, Nov. 27 at 12, Newcastle-upon-Tyne, and ac.—Wm. Bell, Urpeth Mill, Durham, miller, Nov. 28 at half-past 11, Newcastle-upon-Tyne, and ac.—Edward Lindsay Baker, Liverpool, shipbroker, Nov. 27 at 11, Liverpool, and ac.—Moritz Gingold, Manchester, merchant, Nov. 28 at 12, Manchester, and ac.; Dec. 5 at 12, div.—Edward Mason, Manchester, commission agent, Nov. 27 at 12, Manchester, and ac.; Dec. 5 at 12, div.—John Lowe, Manchester, merchant, Nov. 28 at 12, Manchester, and ac.; Dec. 4 at 12, div.—Henry Pratt Ballard and Samuel Newsome, Coventry, ribbon manufacturers, Nov. 29 at 11, Birmingham, and ac.—Joshua Lattimore, Sandbridge, St. Albans, Hertfordshire, timber merchant, Dec. 6 at 11, London, div.—William Dickens, Daventry, Northamptonshire, shoe manufacturer, Dec. 5 at 2, London, div.—Robert Leslie, Abchurch-lane, London, merchant, Dec. 7 at half-past 12, London, div.—James Haswell, Bristol, soap manufacturer, Dec. 6 at 11, Bristol, div.—Joseph Sharp, Metheringham, Lincolnshire, cattle dealer, Dec. 6 at half-past 11, Nottingham, div.—John Whitaker, Bridge-end, near Newchurch, Rossendale, Lancashire, cotton manufacturer, Dec. 4 at 12, Manchester, div.

#### CERTIFICATES.

To be allowed, unless Cause be shown to the contrary on or before the Day of Meeting.

James Sherry, Portsea, Southampton, shoemaker, Dec. 8 at 11, London.—David Taylor M'Pherson, Noble-st., City, straw-hat dealer, Dec. 4 at half-past 12, London.—William Thomas Panter Green, Northampton, currier, Dec. 5 at half-past 1, London.—John Julian, Noble-street, Falcon-square, City, wholesale milliner, Dec. 7 at 12, London.—J. Frederick Kent, Croydon, Surrey, builder, Dec. 7 at half-past 11, London.—Wm. Pitt, Bishopsgate-street Without, City, hosier, Dec. 7 at 11, London.—Alfred Penny, Richmond-villas, Holloway, Middlesex, coal merchant, Dec. 4 at 2, London.—Thomas Plummer Dunn, Woodchester, Gloucestershire, woollen flock dealer, Dec. 10 at 11, Bristol.—Isaac Shaw, Macclesfield, Cheshire, joiner, Dec. 6 at 12, Manchester.—John Leng, Bridlington Quay, Yorkshire, licensed victualler, Dec. 19 at 12, Kingston-upon-Hull.



To be granted, unless an Appeal be duly entered.

*Henry Foot*, Fort-street, Spitalfields, Middlesex, and Sudbury, Suffolk, silk manufacturer.—*George Cusack*, Woodbridge, Suffolk, grocer.—*Horatio Nelson Hornby*, Little Tower-street, London, and Nine-elms, Vauxhall, Surrey, common carrier.—*Abraham Buhner*, Skinner-street, Snow-hill, City, importer of foreign glass.—*David Tearle*, Houghton Regis and Luton, Bedfordshire, straw-plait dealer.—*W. Hills*, Sandgate, Kent, draper.—*Henry Muggridge*, St. George's-place, Brixton-road, Surrey, builder.—*R. Durrant* and *George Brock*, St. Michael, Coslang, Norwich, tallow chandlers.—*John Tombs*, Church-street, Westminster, Middlesex, builder.—*Henry Kinross* and *Jas. Shaw*, Kingston-upon-Hull, omnibus proprietors.—*Thomas Walker*, Birmingham, provision dealer.—*Moses Cartwright*, Longton and Silverdale, Staffordshire, dealer in pottery materials.—*Joseph Corne*, Stourbridge, Worcestershire, soda-water manufacturer.—*Samuel Peach*, Snelinton, Nottinghamshire, draper.—*Charles Bradley*, Deepfields, near Bilston, Staffordshire, iron dealer.—*Stephen Favell*, Bourn, Lincolnshire, builder.—*Walter Neak* and *John Neak*, Droitwich, Worcestershire, salt manufacturers.—*Richard Heafford*, Loughborough, Leicestershire, auctioneer.—*Alvine Williamson*, Nottingham, blacksmith.—*Frederick Taylor Brasington*, Burslem, Staffordshire, shoemaker.—*Frederick Chas. Perry*, Roughwood Colliery and Ryecroft Colliery, near Walsall, and Halfpenny Furnace, near Bilston, Staffordshire, and Stockport, Cheshire, ironmaster.

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By J. GRANT, Barrister at Law.

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By W. M. BEST, Barrister at Law.

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By G. FRANCIS, Barrister at Law.

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## THE JURIST.

LONDON, NOVEMBER 24, 1866.

HAVING in some former articles noticed the first and second parts of the Trustees and Mortgagees Act, 23 & 24 Vict. c. 145, we now proceed to review the two last parts of that act, beginning with the 25th section. We must, however, premise, that trustees or executors, bound to invest money at interest, when no security had been pointed out to them by the instrument under which they acted, could not formerly, with absolute safety, invest trust funds except in the 3l. per Cents. The object of the 25th section is to extend their powers of investment beyond such narrow limits. It is as follows:—"Trustees having trust money in their hands, which it is their duty to invest at interest, shall be at liberty, at their discretion, to invest the same in any of the parliamentary stocks or public funds, or in government securities, and such trustees shall also be at liberty, at their discretion, to call in any trust funds invested in any other securities than as aforesaid, and to invest the same on any such securities as aforesaid, and also from time to time, at their discretion, to vary any such investments as aforesaid for others of the same nature: provided always, that no such original investment as aforesaid, (except in the 3l. per Cent. Consolidated Bank Annuities), and no such change of investment as aforesaid, shall be made where there is a person under no disability entitled in possession to receive the income of the trust fund for his life, or for a term of years determinable with his life, or for any greater estate, without the consent in writing of such person."

Now, we have the same complaint to make against this section which we have made against many other parts of the act, viz. that it interferes arbitrarily, perhaps, however unintentionally, with what may have been

the intention of the author of the trust. It may be wise to expand the narrow rule laid down by the Court of Chancery for the investments of trustees, where no direction has been given to them in what mode their investments are to be made; but we think that the Legislature has gone too far in giving powers to trustees which, perhaps, it was never contemplated by the settlor that they should possess. In other words, we think that the powers of investment given to trustees by the 25th section ought to have been expressly confined to cases where there are no directions for investment in the instrument creating the trust. Suppose, for instance, a very cautious, or, if you like, a speculative testator, (for we have good authority for saying that testators have a right to be speculative, and even eccentric), making a will, directed the trustees to invest the trust funds, we may suppose, in the case of a very cautious man, in the 3l. per Cents., or good real security; if a speculative man, in the bonds or other securities of some bran new republic in another hemisphere. Now, according to the 25th section, trustees, unless the operation of this act is expressly excluded, (see sect. 32), may neglect to invest monies at interest in the mode pointed out by the instrument creating the trust, and may thereby materially affect the interests of persons entitled to the trust funds, or the income thereof, in succession. It may be said that the proviso to the section entirely cures the evil we have pointed out, by requiring the consent of certain persons to investments to be made by trustees; but that is not so. In the first place, its operation is confined to cases where "there is a person under no disability entitled in possession to receive the income of the trust fund for his life, or for a term of years determinable with his life, or for any greater estate," leaving unprovided for cases where a person may be entitled to the income of the trust funds for the life of another, for joint lives, or

for a term of years, or for other periods which it would be tedious to enumerate. And, moreover, where the person entitled to the income is under disability, there is no check whatever upon the trustees.

We must here call attention to further legislation during last session upon the same subject, and we cannot but observe that it is much to be regretted that it was not dealt with in one act only. By the 23 & 24 Vict. c. 38, s. 10, power is given to the Lord Chancellor and the Lord Chancellor of Ireland, with the advice and assistance of certain other judges, "to make such General Orders from time to time, as to the investment of cash under the control of the Court, either in the 3l. per Cent. Consolidated, or Reduced, or New Bank Annuities, or in such other stocks, funds, or securities, as he or they shall with such advice or assistance see fit;" and it shall be also lawful for them "to make such orders as he or they shall deem proper for the conversion of any 3l. per Cent. Bank Annuities now standing, or which may hereafter stand, in the name of the Accountant-General of the Court of Chancery, in trust in any cause or matter, into any such other stocks, funds, or securities upon which, by any such General Order as aforesaid, cash under the control of the Court may be invested; all orders for such conversion of Bank Annuities in other funds or securities to be made upon petition, to be presented by any of the parties interested, in a summary way, and such parties shall be served with notice thereof as the Court shall direct." By the 11th section of the same act it is enacted, "when any such General Order as aforesaid shall have been made, it shall be lawful for trustees, executors, or administrators, *having power to invest their trust funds upon government securities, or upon parliamentary stocks, funds, or securities, or any of them, to invest such trust funds, or any part thereof, in any of the stocks, funds, or securities in or upon which, by such General Order, cash under the control of the Court may from time to time be invested.*"

We must also call attention to a clause in a former act, (22 & 23 Vict. c. 35, s. 32), which we think gives sufficient powers of investment to trustees; but it is not free from those errors which we have pointed out in Lord Cranworth's Act. It is as follows:—"When a trustee, executor, or administrator shall not, by some instruments creating his trust, be expressly forbidden to invest any trust fund on real securities in any part of the United Kingdom, or on the stock of the Bank of England or Ireland, or East India stock, it shall be lawful for such trustee, executor, or administrator to invest such trust fund on such securities or stock; and he shall not be liable on that account as for a breach of trust, provided that such investment shall in other respects be *reasonable and proper.*"

With regard to the powers of maintenance, (sect. 27), and powers of appointing new trustees, (sect. 28), conferred by the act, they may sometimes be useful in cases where the usual clauses have been accidentally omitted in ill-drawn instruments; but we do not think that any practitioner would act wisely in omitting these powers (adapting them, of course, in each case, to the particular exigencies and circumstances of his clients) from any will or settlement in which they have usually been inserted, and thus rely only upon the general provisions of the act.

The power to trustees of giving receipts, by the 29th section, and which was partially provided for by the 22 & 23 Vict. c. 35, s. 23, appears in itself to be the least objectionable part of the act, for it must strike every one as a most unnatural state of the law that persons to whom money is payable upon any trust should not have ample power of giving receipts for such money. It must, however, be observed that there is another receipt clause in the same act; so that we have three receipt clauses—two in this act, and one in Lord St. Leo-

nards'—having a similar object in view. This, however, is what will ever occur when an act is not carefully prepared, either with reference to what is contained within itself, or in the acts of preceding sessions.

The next section, (sect. 30), enabling executors to pay debts, upon such evidence as they may think sufficient, to accept compositions, to allow time for payment of debts, to enter into compromises, compound, and submit matters to arbitration, will be useful where a conveyancer may have omitted to insert a more perfect form.

With regard to the general provisions contained in part 4 of the act, it will be observed, that by the 34th section "the provisions contained in this act shall, *except as hereinbefore provided*, extend only to persons entitled or acting under a deed, will, codicil, or other instrument executed after the passing of this act, or under a will or codicil confirmed or revived by a codicil executed after that date." With reference to this section, we have to remark, that the words "except as hereinafter provided" appear to be surplusage, inasmuch as in no former part of the act does it appear that it is to have a retrospective operation.

The most important section, however, in this part of the act, is the 32nd, which enacts, that "none of the powers or incidents hereby conferred, or annexed to particular offices, estates, or circumstances, shall take effect, or be exercisable, *if it be declared in the deed, will, or other instrument creating such offices, estates, or circumstances, that they shall not take effect.*" A declaration to this effect will, we believe, be a very useful, if not a usual, one in all future instruments; for one of the consequences of its omission is, as detailed in the concluding part of the 32nd section, as follows:—"Where there is no such declaration, then, if any variations or limitations of any of the powers or incidents hereby conferred or annexed are contained in such deed, will, or other instrument, such powers or incidents shall be exercisable or shall take effect only subject to such variations or limitations."

Finally, we cannot but observe, whatever may be the merits of the principle upon which the act is proposed to be drawn, it is much to be regretted that, affecting, as it may do, so many transactions, greater thought, care, and accuracy have not been expended in its preparation for the too-ready acceptance of the Legislature.

If it is advisable to alter the law in any respect, surely it is worth while to effect the alteration in such a way that it may be called, not in the parliamentary, but in the real, sense of the word, an amendment.

If our mode of conveyancing is to be improved, cannot some man of real learning and eminence, such as the late Mr. Brodie, be found, who would produce us a system such as practitioners might safely, and therefore willingly, adopt, and of which the Legislature might not, on giving it their imprimatur, be in after years heartily ashamed?

### Correspondence.

#### ON SIR W. P. WOOD'S PARTIAL DISSENT FROM THE REPORT OF THE COMMISSIONERS

APPOINTED TO INQUIRE INTO THE EXPEDIENCY OF BRINGING THE COURTS TOGETHER INTO ONE PLACE OR NEIGHBOURHOOD, AND FOR OTHER PURPOSES. (6 JUNE, N. S., PART 2, PP. 290 ET SEQ., 345).

TO THE EDITOR OF "THE JURIST."

SIR,—I think that the public will have much cause to regret if the dissent of Sir W. P. Wood, V. C., from that part of the Report of the commissioners approving of the application of the Funds B., D., and E. to the pur-

chasing of land, and building of new courts of law and equity, is to stand in the way of so great a desideratum. The public could scarcely have expected that learned, luminous, and liberal-minded judge to have taken so narrow and technical a view of the subject as from Appendix A. he seems to have done. His opinion manifestly is—and it pervades his entire reasoning—that *complete justice* with respect to the dealing with Fund B. (1,291,629*l.* 10*s.* 5*d.* stock) could only be effected by dividing it amongst all the suitors of the court or their representatives from the year 1768 down to the present time, from the investment of whose cash this fund has accumulated; but that as this “is a right not capable of being enforced by any remedy,” therefore it should only be applied for the benefit of the present and future suitors of the Court of Chancery, and this rather by reducing the fees on Chancery proceedings than on building new Chancery courts and offices, but on no account upon building courts of common law, or other courts not being courts of equity.

Now, this is what I have taken the liberty of calling a narrow and technical view of the subject; and I think that, even on Sir W. P. Wood's own reasoning, his opinion is either too narrow or too liberal. It is clear, throughout Appendix A., that his proposed application of the fund is governed by the doctrine of *cy-près*, and that, as perfect justice cannot be done by handing over the fund to the suitors or their representatives, whom *a priori* he considered entitled to it, the nearest approach to that equity should be sought in its administration; and he would therefore, by means of this fund, reduce fees on Chancery proceedings, or extinguish them altogether. Now, for a moment, let us consider this as a charitable foundation, although without one word of dedication by the supposed parties contributing. The first thing to be considered is the intention of the founders.

Now, suppose that at a period when Consols were 75*l.*, the parties to two Chancery suits—suit A. and suit B.—had each to pay in 10,000*l.*, and the parties to suit A. agreed to ask the Court to *invest*, but the parties to suit B., thinking that Consols would go lower, agreed that it was not to be invested. Suppose, then, a conversation like the following between the parties to suits A. and B.:—

A.—Why don't you invest? Consols are so low they are sure to rise. Besides, in the meantime no income is derived from your 10,000*l.*

B.—We think that Consols will go much lower, and we prefer being sure of the sum of 10,000*l.* when we take it out; besides, if Consols go much lower, we can then ask to have it invested. But, further, in all probability the Court will *mero motu* invest it, and then we shall be entitled to all the increase as arising from a dealing with our monies without our permission.

A.—You are quite mistaken there; upon no principle can you be entitled to more than your pound of flesh. If the Court invests your 10,000*l.*, it does so at its own risk, and not at yours; and the State being bound to repay you your 10,000*l.*, it can do what it pleases with the profits, if any; and we understand that there is a grand project in hand to the effect, that when such profits amount to a sufficient sum, all fees on Chancery proceedings are to be abolished, so that we shall derive just as much benefit from your excessive prudence as you can.

B.—The profits must either be ours, or the absolute property of the State; if ours, it ought to be paid to us; but if not, we protest against you or your class of speculators deriving any benefit from it—it should be applied for the benefit of us, and the other suitors who leave their money in court as cash; but we would rather see it flung into the sea, or applied in the reduction of common-law fees, than in reducing your fees.

What becomes now of the doctrine of *cy-près*? And

why is a distinction to be drawn between suitors at common law and suitors in equity, but not to be drawn between two classes of suitors in equity positively antagonistic in their feelings? I submit that Sir W. P. Wood, V. C., to be consistent, must make this distinction.

But the real question is this, has one penny of this accumulated fund been made at the expense of the suitor? The negative of this would appear to be too clear to require argument; yet Sir W. P. Wood, V. C., assumes the affirmative. The suitors, from whose money this fund has arisen, declined to run the chances of the rise or fall of Consols, and said, “We must have the exact sum we pay in.” The Court replies, “You shall, and nothing more.” What concern is it to those suitors, that the State, not the Court, taking upon itself the chance of the rise or fall of Consols, and consulting public policy, which forbids the locking up of such enormous sums of money, authorises the Court of Chancery to invest these monies? The suitor gets no less than his own; why should he get more? Is he to be in as good a position as regards profits as the suitor who asks that the money may be invested; and in a better position than he, by reason of having a right to be paid the exact sum paid in? Who would ask for investment under such circumstances? This brings me to the only really debatable ground upon which it can be contended that the suitors have any the remotest interest in the profits derived from the use of their money; and that is upon the ordinary right of a *cestui que trust* against his trustee to the profits made of his money. I shall not attempt to discuss the question, which is fully observed upon in the Report, whether the Court of Chancery stands in that relation of trustee to its suitors paying in money; for the purpose of my argument, I will assume that it is a trustee, but I must also be allowed to assume that the State is surety for that trustee. Suppose, then, that A. says to B., “Here is a box with 10,000 sovereigns in it; I wish you to keep these 10,000 sovereigns under lock and key for me until I want them, but you are not to invest them.” B. would probably say, “Keep them yourself—they might be stolen.” But suppose that he took them, and invested them in Consols, declaring the trust for A., and years afterwards, when Consols were 10*l.* per cent. lower than when B. bought them, A. demanded his 10,000 sovereigns and the whole of the intermediate dividends. The Court would hesitate long before it decreed payment of both. But there are two distinctions between this case and the case of the Court being trustee. First, the Court cannot refuse to receive the money paid in in its ordinary course of business. Secondly, B., in the case put, made A.'s money profitable, and the rule of equity, that a trustee cannot derive a profit from his trust, would apply, so that there would be no one entitled to the profit if A. was not. Now, in the case of investment by the Court under the authority of the State, the Court, or its officer the Accountant-General, who, *ex hypothesi*, is the trustee, does not make this profit for itself or himself, but it is made for the benefit of the State, which guarantees that every cash depositor (not asking for it to be invested) shall receive the exact sum deposited.

Two questions may be asked to test the accuracy of the above conclusion—First, how do you shew that the State gives that guarantee? Secondly, how does it follow that the State is entitled to the profit?

First, in 1725, when the four Masters in Chancery became defaulters to the extent of upwards of 100,000*l.* of the suitors' money, the Masters being at that time the custodians for the suitors, Parliament recognised the State's liability to make good that amount, and raised that sum; *a fortiori*, the State is liable to make good all losses to the suitors' money incurred by reason of the Court's investments under the express authority of



Parliament. Indeed, Sir W. P. Wood admits the first proposition; for, in speaking of the Masters in Chancery, and their default, he says—"The State was bound to remedy the wrong done to the suitors in Chancery by the officers of a public tribunal."

Secondly, how does it follow that the State is entitled to the profit? To simplify the answer to this question, let me suppose that two suitors, A. and B., bring into court two sums of 10,000*l.* each, neither of them asking for it to be invested. Both sums are invested by the Court under the standing authority of Parliament. When A. asks for his 10,000*l.* to be paid out, Consols are 10*l.* per cent. below the price they were at when the investment was made. The State is bound to make good the loss. When B. comes for his 10,000*l.* to be paid out, Consols are 10*l.* per cent. higher than when the investment was made, and there is a profit of 1000*l.* Two parties alone can be entitled to this, B. or the State. On what ground can B. be entitled to it? He would not risk the investment; he wished it to be locked up in the Bank of England, where it would not be profitable to him, though it would to the proprietors of Bank Stock. The State says to the Lord Chancellor—"Place this 10,000*l.* in a safer place than even the Bank of England; let it be invested in Consols; we guarantee the sum of 10,000*l.* to the suitor; let any loss that may arise be made good out of profits of other like investments; but if those are not sufficient, we guarantee the deficiency." Can it be for one instant contended that, although, *ex concessio*, the State was liable to make good the loss on A.'s 10,000*l.*, it was not entitled to the profit on B.'s 10,000*l.*? Would Parliament ever have passed such a one-sided act if such is the necessary result? Can it make any difference to this reasoning, that practically the State never has had as yet to apply any funds to make up losses on unfortunate investments other than the profits on fortunate investments? A state of circumstances may easily be imagined when even this large accumulated fund might fall far short of being sufficient to make up the deterioration in value of the stock invested on the authority of Parliament, in which event Parliament would be bound to make good such deficiency. I think that no one can deny, that if the accumulated fund (Fund B.) were, by the authority of Parliament, exhausted for any purpose—even, as I presume Sir W. P. Wood would advise, in forming a fund to meet all the requirements for which fees on Chancery proceedings are enforced, and thereby abolishing all such fees—still would the State be bound to make good all losses from investments under its authority. Then who was the party, and the only party, originally interested in the Fund B.? The answer is, John Bull, and John Bull alone; and if he consent to the building of these proposed courts of law and equity, it will be an act of magnanimity to which no suitor of the Court of Chancery individually, nor suitors in the aggregate, has or can have the remotest ground for objecting.

The normal state of Fund B. was really and practically nothing but a primary guarantee fund for the Court of Chancery to recoup out of it any losses arising upon investments made, as above stated, upon the authority of Parliament, and to avoid the necessity of from time to time calling upon Parliament to make good that loss. That normal state has been affected by Parliament on some occasions, (mentioned in paragraphs 47, 48, 49, and 51 of the Report), authorising the application of part of the capital of Fund B. in building Chancery offices, and of part of the profits in payment of certain fixed salaries and pensions to officers of the Court of Chancery. The present position of it is, and has been since the 15 & 16 Vict. c. 87, that the income arising from Fund B., which in 1852 amounted to 1,291,629*l.* 10*s.* 5*d.* stock, is charged with certain annual payments, and the surplus income is paid over to Fund C., "the

Suitors' Fee Fund Account." To the extent of this surplus it may be admitted that Fund C. has an interest in the preservation of Fund B.; but it is to be remembered that Parliament has done nothing to absolve Fund B. from its primary and original liability to make good the losses of investments made by the authority of Parliament, and that, in fact, should Parliament agree to give to Fund C. the guarantee proposed in the Report, it will put Fund C. in a more solvent position than it at present stands; for it is to be borne in mind that a fall in Consols, like that experienced in the last European war, might soon sweep away Fund B., which has since 1852 ceased to increase.

Sir W. P. Wood says, that if the State applied Fund B. to any purposes other than "purposes connected with the Court of Chancery usually paid for by fees," the State would be making a profit "at the suitor's expense, without a corresponding benefit to him." But he has not attempted to shew that one penny of that fund has ever been made "at the expense of the suitor;" and, for the reasons hereinbefore urged, I submit it to be clearly impossible to maintain that proposition; and that neither the past, present, nor future suitors of the Court of Chancery, who, in their embodiment, are made a *bête noir* upon this occasion, have any the most remote right or title, in justice or equity, to Fund B., or any part of it.

Your obedient servant,

TENISON EDWARDS.

Bank Chambers, Cook-street, Liverpool,  
October 20, 1886.

## GENTLEMEN CALLED TO THE BAR.

THE following gentlemen have been called to the degree of Barrister at Law:—

LINCOLN'S INN.—H. S. P. Winterbotham, Esq., LL.B.; D. A. Freeman, Esq.; T. W. J. Dent, Esq., M.A.; A. H. S. Stonehouse Vigan, Esq., B.A.; R. A. Fitz Gerald, Esq., B.A.; the Hon. John B. L. Warren; T. B. A. Were, Esq.; G. Charles, Esq., B.A.; F. N. Mundy, Esq.; E. J. Athawes, Esq., B.A.; G. D. Atkinson, Esq.; H. C. Merinden, Esq., B.A.; E. F. à Beckett, Esq.; H. A. Shirley, Esq., B.A.; F. Herschell, Esq., B.A.; J. G. Pilcher, Esq.; S. T. Staughton, Esq.; M. Pilcher, Esq.; H. S. Drewry, Esq., M.A.; and G. P. Bidder, jun., Esq., B.A.

INNER TEMPLE.—William Rolles Fryer, Esq., B.A.; Frederick Samuel Child, Esq.; Henry Thomas Braithwaite, Esq., M.A.; Richard Battye, Esq., B.A.; Archibald Levin Smith, Esq., B.A.; Robert Marsden Latham, Esq.; Harry Tichbourne Davenport, Esq., M.A.; Joshua Dean, Esq.; Frederick Bridgman, Esq.; Joseph Hartley, Esq.; Henry Francis Gillett, Esq., M.A.; and John Henry William Fenton, Esq., M.A.

MIDDLE TEMPLE.—Edward Uttermare Bullen, Esq.; George Burnett Barton, Esq.; Christopher James Davison Ingledew, Esq.; George Frederick Robinson Jarvis, Esq., Exeter Coll., Oxf.; Cornelius Walford, Esq.; and Clement James Wolseley, Esq.

## COURT OF QUEEN'S BENCH.

MICHAELMAS TERM.—24 VICTORIA.—Nov. 14, 1886.

This Court will hold sittings on Tuesday, the 27th, and Wednesday, the 28th days of November instant, and will at such sittings proceed in disposing of the cases then pending in the Crown and Special Papers.

By THE COURT.

*Palmer*, Gloucester, ironmonger.—*Ephraim Jobbins*, Gloucester, carrier.—*George Hasluch*, Tetbury, Gloucestershire, ironmonger.—*James M'Master* and *Samuel Haines*, Aberystwyth, Monmouthshire, drapers.—*Geo. William Bryant* *Kilflamark*, Pariton, Somersetshire, cement manufacturer.—*Joseph Rothery*, Halifax, Yorkshire, watchmaker.—*George Helgate*, Halifax, Yorkshire, grocer.—*Freeman Newell*, Huddersfield, Yorkshire, cloth-cap maker.—*Nathan Cressley*, Halifax, Yorkshire, machine maker.—*John Lord*, *Sidney Aquila Butterworth*, and *Horatio Butterworth*, Shelf, near Halifax, Yorkshire, dyers.

## PARTNERSHIP DISSOLVED.

*Henry Smart* and *John Charles Tompkins*, York-place, Portman-square, Middlesex, and Worthing, Sussex, solicitors.

## SCOTCH SEQUESTRATIONS.

*Wilson & Co.*, Glasgow, biscuit manufacturers.—*Quintin Leitch*, Innellan, Argyleshire, fisher.—*Donald Munro*, Muile, Sutherlandshire, dyer, and Ullapool, Ross-shire, merchant.—*John Mitchell*, Glasgow, cartoon manufacturer.

## TUESDAY, Nov. 20.

## BANKRUPTS.

**EDWARD ANSELL**, South-street, Manchester-square, Middlesex, draper, Nov. 27 and Dec. 28 at 1, London: Off. Ass. Johnson; Sol. Jones, Sise-lane, London.—Pet. f. Nov. 19.

**ALFRED AUBERT and CHAMPNEYS POWELL**, St. Mary-axe, City, wine merchants, (trading under the firm of Partridge & Co.), Nov. 30 at 1, and Dec. 28 at 12, London: Off. Ass. Johnson; Sols. Hughes & Co., Bucklersbury.—Pet. f. Oct. 10.

**WILLIAM OWERS JENNINGS**, Uggeshall, Suffolk, horse dealer, Dec. 1 and 28 at half-past 1, London: Off. Ass. Whitmore; Sols. Crabtree & Cross, Halesworth, Suffolk; White & Co., 6, Whitehall-place, London.—Pet. f. Oct. 30.

**JOHN JENNINGS**, Gough-square, Fleet-street, City, printer, Dec. 1 at 1, and Dec. 27 at half-past 12, London: Off. Ass. Whitmore; Sols. Van Sandau & Cumming, 13, King-st., Cheapside.—Pet. f. Nov. 10.

**WILLIAM HENRY GODFREY**, Henley-on-Thames, Oxfordshire, bookseller, Nov. 30 at 11, and Jan. 1 at 12, London: Off. Ass. Stansfeld; Sols. Lediard, Henley-on-Thames; Peek & Downing, 10, Basinghall-street, London.—Pet. f. Nov. 15.

**DAVID WHELDON**, Northampton, coal merchant, Nov. 29 at 11, and Jan. 1 at 1, London: Off. Ass. Graham; Sols. Becke, Northampton; Metcalfe, 4, Furnival's-inn, Holborn.—Pet. f. Nov. 19.

**THOMAS NORTH**, Brighton, Sussex, contractor, (lately trading with Joseph North), Nov. 30 at 1, and Dec. 31 at 12, London: Off. Ass. Pennell; Sols. J. & J. H. Linklater & Co., 7, Walbrook, London.—Pet. f. Nov. 16.

**JAMES SOLOMON**, Blackfriars-road, Surrey, grocer, Dec. 4 and Jan. 1 at 1, London: Off. Ass. Edwards; Sol. Hodgkinson, 17, Little Tower-street, London.—Pet. f. Nov. 18.

**JOHN BROWNING**, Northumberland-terrace, Bagnigge-wells-road, Middlesex, grocer, Dec. 1 at 12, and Jan. 1 at 1, London: Off. Ass. Lee; Sols. Lawrance & Co., 14, Old Jewry-chambers, London.—Pet. f. Nov. 14.

**JOHN BURK STEDMAN**, Cinderford, East Dean, Gloucestershire, surgeon, Dec. 3 and Jan. 1 at 11, Bristol: Off. Ass. Acraman; Sols. Whitley, Newnham; Abbot & Co., Bristol.—Pet. f. Nov. 17.

**EDWIN PHILLIPS**, Pontypool, Monmouthshire, shoemaker, Dec. 3 and Jan. 1 at 11, Bristol: Off. Ass. Miller; Sols. Smith & Co., Bristol.—Pet. f. Nov. 7.

**JAMES PRITCHARD**, Newnham, Gloucestershire, saddler, Dec. 4 and Feb. 1 at 11, Bristol: Off. Ass. Acraman; Sol. Wilkes, Gloucester.—Pet. f. Nov. 17.

**JOHN LEACH**, Bingley, Yorkshire, manufacturer, Dec. 10 and Jan. 7 at 11, Leeds: Off. Ass. Hope; Sols. Weatherhead & Burr, Keighley; Bond & Barwick, Leeds.—Pet. d. Nov. 13.

**SARAH TRANCHARD**, widow, Wellington, Somersetshire, Dec. 5 and Jan. 2 at 12, Exeter: Off. Ass. Hirtzel; Sols. Lovibond, Bridgwater; Clarke, Exeter.—Pet. f. Nov. 7.

## MISTINES.

*George Wright*, Northampton, coach manufacturer, Nov. 30 at 12, London, aud. ac.—*Wm. Francis and Jas. Hooper*, New Leather-market, Brompton, Surrey, leather factors,

Dec. 4 at 12, London, aud. ac.—*John Harrie*, Lea Bailly, Gloucestershire, innkeeper, Dec. 6 at 11, Bristol, aud. ac.—*Jonathan Brignall*, Manchester, dyer, Dec. 7 at 12, Manchester, aud. ac.; Dec. 14 at 12, div.—*Henry Baston*, Manchester, mercer, Dec. 6 at 12, Manchester, aud. ac.—*William Hunt*, Manchester, and Tonga, near Middleton, Lancashire, silk manufacturer, Dec. 7 at 12, Manchester, aud. ac.; Dec. 14 at 12, div.—*Patrick Hayes*, Widnes, Lancashire, oil manufacturer, Nov. 30 at half-past 11, Liverpool, aud. ac.—*Thomas Palmer* and *Samuel Palmer*, Plymouth, drapers, Dec. 3 at half-past 12, Plymouth, aud. ac.—*B. Abraham*, Taunton, Somersetshire, jeweller, Dec. 6 at 12, Exeter, aud. ac.—*George Rawls*, Porlock, Somersetshire, tanner, Dec. 5 at 12, Exeter, aud. ac.; Dec. 13 at 12, div.—*John Ross*, Truro, Cornwall, draper, Dec. 5 at 12, Exeter, aud. ac.; Dec. 13 at 12, div.—*Robert Stone*, Cerne Abbas, Dorsetshire, innkeeper, Dec. 5 at 12, Exeter, aud. ac.—*Nicholas M. Grose*, Wadebridge, Cornwall, wine merchant, Dec. 6 at 12, Exeter, aud. ac.—*W. Sheenbrooks*, Taunton, Somersetshire, builder, Dec. 5 at 12, Exeter, aud. ac.—*John J. Rolls*, Cerne Abbas, Dorsetshire, grocer, Dec. 5 at 12, Exeter, aud. ac.; Dec. 13 at 12, div.—*George Thomas Suter*, Weymouth and Melcombe Regis, Dorsetshire, confectioner, Dec. 5 at 12, Exeter, aud. ac.—*David Heard* the elder, Barking, Essex, smack owner, Dec. 13 at 11, London, div.—*G. Luigi Schembri*, Leadenhall-street, City, merchant, Dec. 20 at 11, London, div.—*C. H. Gills*, Union-row, Tower-hill, and Wapping, Middlesex, ironmonger, Dec. 20 at 12, London, div.—*Geo. Worrall Jones*, Crickhowell, Breconshire, banker, Jan. 10 at 11, Bristol, fin. div.—*James Sampson*, Bristol, picture dealer, Dec. 13 at 11, Bristol, fin. div.—*John Chalmers*, Cirencester, Gloucestershire, tea dealer, Dec. 20 at 11, Bristol, fin. div.—*J. Hasell*, Bristol, soap manufacturer, Dec. 13 at 11, Bristol, fin. div.—*John Brimelow*, *Richard Daniels*, and *Samuel Daniels*, Bedford, Leigh, Lancashire, silk manufacturers, Dec. 14 at 12, Manchester, div.—*George Gregg*, Sheffield and Wash-upon-Dearne, Yorkshire, carrier, Dec. 15 at 10, Sheffield, div.

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## MEETINGS.

*Edward Toynbee*, Lincoln, agricultural merchant, Dec. 5 at 12, Kingston-upon-Hull, ch. ass.—*Lewis Robert Poole* and *Samuel Bryan*, New Oxford-st., Middlesex, and Northampton, shoe manufacturers, Dec. 5 at 1, London, last ex. and aud. ac.—*James Hall*, Oxford, builder, Dec. 5 at 12, London, aud. ac.—*George Erlam*, Upper-street, Islington, Middlesex, woollendraper, Dec. 5 at half-past 11, London, aud. ac.; Dec. 15 at half-past 11, div.—*J. Dilworth*, *R. M. Arthington*, and *R. Birkett*, Lancaster, bankers, Dec. 11 at 12, Manchester, aud. ac. joint est., and aud. ac. sep. est. of *J. Dilworth*; Dec. 18 at 12, div. joint est., and div. sep. est. of *J. Dilworth*.—*John Brimelow*, *Richard Daniels*, and *Samuel Daniels*, Bedford, Leigh, Lancashire, silk manufacturers, Dec. 6 at 12, Manchester, aud. ac.—*John Merson* and *Thos. B. Ingham*, St. Helens, Lancashire, glass manufacturers, Dec. 5 at 11,

Liverpool, aud. ac., and Dec. 14 at 11, div., sep. est. of *John Merson*; Dec. 20 at 11, aud. ac., and Dec. 18 at 12, div., joint est.—*John C. M'Donald* and *Andrew T. H. Dalziel*, Liverpool, wine merchants, Dec. 3 at 11, Liverpool, aud. ac.; Dec. 17 at 11, div.—*William Turpin*, Plymouth, Devonshire, draper, Dec. 3 at half-past 12, Plymouth, aud. ac.; Dec. 31 at half-past 12, div.—*Thomas Jarvis Harris*, Plymouth, Devonshire, mercer, Dec. 3 at half-past 12, Plymouth, aud. ac.; Dec. 31 at half-past 12, div.—*Edward Turnbull*, West Hartlepool, Durham, shipowner, Dec. 4 at 12, Newcastle-upon-Tyne, aud. ac.—*William Watts*, Southam, Warwickshire, builder, Dec. 12 at 11, Birmingham, aud. ac.—*John Turner*, Halifax, Yorkshire, grocer, Dec. 6 at 11, Leeds, aud. ac.—*Wm. Foxcroft* and *George Wellock* the younger, Heckmondwike, Yorkshire, cotton spinners, Dec. 6 at 11, Leeds, aud. ac.—*Joseph Gawthorpe*, Horbury-bridge, near Wakefield, Yorkshire, cloth miller, Dec. 6 at 11, Leeds, aud. ac.—*John Lee Stevens*, Fish-street-hill, City, dealer in iron, Dec. 17 at half-past 1, London, div.—*Anthony Holme*, Commercial-wharf, Old Swan-lane, Upper Thames-street, City, shipowner, Dec. 18 at 2, London, div.—*Alfred Wale*, Nottingham, hosier, Dec. 20 at 11, Nottingham, aud. ac. and div.—*William Morris*, Nottingham, draper, Dec. 20 at 11, Nottingham, div.—*Roger Divine M'Manus*, St. Austel, Cornwall, apothecary, Dec. 19 at 12, Exeter, div.—*Joseph Phillips*, Newcastle-upon-Tyne, milliner, Dec. 18 at half-past 11, Newcastle-upon-Tyne, div.—*John Rushton*, Carlisle, Cumberland, plasterer, Dec. 18 at 12, Newcastle-upon-Tyne, fin. div.—*John Wesley Swann*, Manchester, India-rubber manufacturer, Dec. 19 at 12, Manchester, div.—*H. Broadbent Gaskell*, Liverpool, broker, Dec. 13 at 11, Liverpool, div.—*Miles Lambert*, Liverpool, tailor, Dec. 17 at 11, Liverpool, div.—*Daniel Best Parry*, Liverpool, whitesmith, Dec. 17 at 11, Liverpool, div.—*Sylvester Matison*, Liverpool, ship store keeper, Dec. 14 at 11, Liverpool, fin. div.

## CERTIFICATES.

*To be allowed, unless Cause be shown to the contrary on or before the Day of Meeting.*

*Wm. Elliott*, Church-street, and Oxford-terrace, King's-road, Chelsea, Middlesex, builder, Dec. 18 at 12, London.—*George Wigglesworth*, Richardson-street, Bermondsey, Surrey, leather dresser, Dec. 14 at 12, London.—*Chas. Bottom*, Crawford-passage, Clerkenwell, Middlesex, brassfounder, Dec. 5 at 12, London.—*Morris Cohen*, Commercial-road, Landport, Hampshire, dealer in glass, Dec. 17 at half-past 11, London.—*Dawson Plane*, King's Lynn, Norfolk, draper, Dec. 22 at 12, London.—*Jas. Collins*, Oxford, paper maker, Dec. 22 at 1, London.—*Charles Gannett*, Cardiff, Glamorganshire, outfitter, Dec. 17 at 11, Bristol.—*Michael Hovion*, Nottingham, hosier, Dec. 18 at half-past 11, Nottingham.—*Wm. Tait*, Nottingham, jeweller, Dec. 18 at half-past 11, Nottingham.—*John H. Sharpe*, Denby, Derbyshire, boarding-house keeper, Dec. 18 at half-past 11, Nottingham.

*To be granted, unless an Appeal be duly entered.*

*Wm. S. C. W. Bassett*, Shoerness, Kent, grocer.—*Wm. P. Watson*, Hampstead-road, Middlesex, draper.—*Joshua Lattimore*, Sandridge, near St. Albans, Hertfordshire, timber merchant.—*George V. Jackson*, Chichester-place, Battle-bridge, Middlesex, bookseller.—*Edward Wortley*, Alphaterrace, Willesden, Middlesex, builder.—*Samuel S. Maurer*, Great St. Helens, Bishopsgate-street, City, merchant.—*J. Hyams*, Spencer-street, Clerkenwell, Middlesex, watch manufacturer.—*James Woodrow*, Ryde, Isle of Wight, Hampshire, hotel keeper.—*Wm. Hughes*, Leicester, grocer.

## PETITIONS ANNULLED.

*Joseph Povey*, Warwick, innkeeper.—*Thomas Porcia*, Milk-street, Cheapside, City, and Hackney-road, Middlesex, hosier.—*Isaac Guttman*, Sheffield, Yorkshire, watchmaker.—*Ralph E. Ridley*, Great St. Helens, Bishopsgate-street, City, and Newcastle-upon-Tyne, merchant.

## TUESDAY, Nov. 27.

## BANKRUPTS.

**ANGUS JENNINGS** and **WILLIAM TAYLOR JENNINGS**, Little Tower-street, City, commission merchants, Dec. 11 at 1, and Jan. 8 at 12, London: Off. Ass. Stanfield; Sol. Redpath, 27, Walbrook, London.—Pet. f. Nov. 21.

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## THE JURIST.

LONDON, DECEMBER 1, 1860.

THE session of Parliament of the present year, however much it may have disappointed the expectations of many, has nevertheless been productive of several measures for the amendment of the law. Among other things it will be remarkable for having passed the third Common-law Procedure Act, the 23 & 24 Vict. c. 126, forming an important sequel to the two former acts with the same title of 1852 and 1854—namely, the 15 & 16 Vict. c. 76, and the 17 & 18 Vict. c. 125. We propose to direct attention to the provisions of this statute, with the view of shewing the changes it has effected in our law and procedure.

The act is intitled "An Act for the further Amend-

ment of the Process, Practice, and Mode of Pleading in, and enlarging the Jurisdiction of, the Superior Courts of Common Law at Westminster;" and this order is followed in the preamble, which recites, "that it is desirable further to improve the process, practice, and mode of pleading in, and in some respects to enlarge the jurisdiction of, the superior courts of common law." In the body of the statute, however, a different order is adopted. The statute is divided by the Legislature into these four general heads:—1. "Relief against Forfeiture," comprising the first three sections. 2. "Appeal," sects. 4-11. 3. "Interpleader Proceedings," sects. 12-18. 4. "Procedure and Practice," sects. 19-46 and last. But the logical order is indifferently preserved; for it will be found that under the head "Procedure and Practice," the jurisdiction is enlarged in several respects; and some of the provisions



at the end are applicable to the statute generally, and are not confined merely to the head under which they are found.

Under these circumstances we shall consider the provisions of the statute in their natural order—i. e.

1. Provisions extending the Jurisdiction of the Courts.
2. Provisions relating to Process.
3. Provisions relating to Pleading.
4. Provisions relating to Practice.
5. General Provisions.

#### 1. *Extension of Jurisdiction.*

The earlier sections of this act take another step towards the fusion of law and equity, which has been so much agitated of late. By sect. 1, "in the case of any ejectment for a forfeiture brought for non-payment of rent, the court or a judge shall have power, upon rule or summons, to give relief in a summary manner, but subject to appeal as hereinafter mentioned, up to and within the like time after execution executed, and subject to the same terms and conditions in all respects, as to payment of rent, costs, and otherwise, as in the Court of Chancery; and if the lessee, his executors, administrators, or assigns, shall upon such proceeding be relieved, he and they shall hold the demised lands according to the lease thereof made, without any new lease." And by sect. 2 a similar power is given in the case of any ejectment for a forfeiture for breach of a covenant or condition to insure against loss or damage by fire, in all cases in which such relief may now be obtained in the Court of Chancery under the provisions of the 22 & 23 Vict. c. 86, intituled: "An Act to further amend the Law of Property, and to relieve Trustees," and upon such terms as would be imposed in such court. The next section enacts, that "where such relief shall be granted, the court or a judge shall direct a minute thereof to be made by indorsement on the lease or otherwise."

The statute then deals with the subject of appeal. From an order, upon application for relief, made by a judge, it gives an appeal to the Court, (sect. 4); from an order made by the Court, an appeal to a Court of error, (sects. 5 and 6). Notice of appeal must be given, (sect. 7); and likewise bail, otherwise the appeal will not be a stay of execution, (sect. 8). Provision is then made for the form of appeal, (sect. 9); and the Court of appeal is empowered either to give judgment or remit the proceedings to the Court below, (sect. 10); and may award costs and restitution, (sect. 11).

(To be continued).

### THE ROAD MURDER—REG. v. THE CORONER OF WILTS.

SEVERAL, we regret to say ineffectual, steps have been taken to discover the author of the mysterious murder at Road, in Wiltshire, since we directed the attention of our readers to the subject in a former number. (See ante, p. 352). We then stated that the Government had appointed a local solicitor, Mr. Slack, to make further investigation, who accordingly went to the house of Mr. Kent, the father of the murdered child, and examined the inmates; the consequence of which was, that (we believe, with the advice of the Attorney-General) the nursery-maid was a second time brought before the magistrates. After several days' hearing, during which Mr. T. W. Saunders, of the Western Circuit, (who, for a reason that will presently appear, must be distinguished from Mr. T. B. Saunders), appeared in support of the charge, and Mr. Ribton, of the Home Circuit, for the accused, the magistrates dismissed this charge also. Under these circumstances, Mr. T. B. Saunders, of the Chancery Bar, who is also a magistrate for the county of Wilts, held for several days

a public investigation into the matter—an investigation which it is difficult to characterise, there being no charge or accusation before him, the proceeding being unsanctioned by his brother magistrates, and being marked by an utter and apparently intentional disregard of the rules of evidence. The extraction of an enormous mass of village gossip, contradiction, and absurdity was the natural result. But one piece of information of some importance appears to have been elicited, namely, the discovery by the police, very soon after the murder, of a bloody garment in the house of Mr. Kent, in a place where it had evidently been secreted. In the meantime it began to dawn on the minds of the authorities that the great cause of the defeat which justice has hitherto experienced in this matter was, in all probability, to be found in the mode in which the coroner's inquisition was taken in the first instance. The Government adopted this view, and on Saturday last the Attorney-General moved the Court of Queen's Bench for a rule to quash the inquisition, and direct, not another inquest *super visum corporis*, but a special inquiry by way of *melius inquirendum*. This application was founded on two grounds—first, that the coroner had misdirected the jury at the inquest, and had in some other respects conducted it in an unusual and improper manner; secondly, that the inquisition was void as being drawn up on paper instead of parchment. The Court refused to grant a rule absolute in the first instance, considering it right that the coroner should have an opportunity of answering the imputations thrown out against him. They, however, granted a rule to shew cause; and we shall abstain from comment until the coroner has been heard.

### Correspondence.

TO THE EDITOR OF "THE JURIST."

SIR,—In your remarks upon that penny wise and pound foolish bit of legislation, the Trustees and Mortgagees Act of last session, the maintenance clause is not so thoroughly condemned as it ought to be. The clause is so fraught with doubts and difficulties, that its exclusion from all wills and settlements should be most carefully insured.

The act (sect. 26, not sect. 27) provides, that in all cases where any property is held by trustees in trust for an infant, either absolutely, or contingently on his attaining the age of twenty-one years, or on the occurrence of any event previously to his attaining that age, the trustees may apply the income for his maintenance or education; and they are required to accumulate the residue of such income, and the resulting income, by investing them in "proper securities" for the benefit of the person who shall ultimately become entitled to the property from which such accumulation shall have arisen.

The first question is, whether an executor is a trustee within the meaning of the act. If property—say a sum of stock—be bequeathed to an infant, without the intervention of a trustee, contingently on his attaining twenty-one, can the executor safely apply the income? The Courts will probably hold him to be a trustee; but I apprehend no counsel will advise him to act on his own responsibility before the question is judicially determined. It is unnecessary to notice that the Court does not order maintenance in such a case without the consent of the other parties interested; and it will be recollected that the professed object of the act is merely to supply powers usually given; and such a power is not usually given to an executor in that character.

The provision is confined to infants absolutely entitled, and infants becoming entitled on attaining twenty-one, or some other event happening previously to twenty-one. Therefore, when property is held in trust



for an infant on his attaining a more advanced age, or on the happening of some event which may not happen before he attains twenty-one, no maintenance is given. But if it is to be presumed that a testator intends to provide maintenance where the contingency is attaining twenty-one, why not where it is attaining twenty-four or twenty-five?

The expressions "all cases" and "any property" are most comprehensive, the former including the case of an infant entitled to the income only, the latter real as well as personal estate. And the "person who shall ultimately become entitled to the property" means, it is apprehended, the person who shall ultimately become entitled to the corpus—"property" being used here in the same sense as at the commencement. The provisions usually inserted in wills and settlements, to some extent, vary according to the particular circumstances of each case; but they agree in converting, in some way or other, the surplus income into corpus, and give to the tenant for life, where there is one, a life interest. The same thing, it is presumed, was intended to be accomplished here, by declaring that the accumulation of income shall be held in trust for the person who shall ultimately become entitled to the property. What is the result?

If real property be held in trust for an infant in fee, will the surplus income, on his death under twenty-one, belong to the heir or administrator? "Ultimately entitled" points to some time subsequent to the cesser of the accumulation. The infant himself does not answer the description, for he is presently entitled; and if "property" means corpus, the administrator is not entitled at all. "Ultimately entitled" applies most properly to the heir, but the heir certainly was not intended.

Again: if real or personal property be settled in trust for an infant for life, and after his death for his children or some other persons absolutely, I presume the children or other persons will take the surplus immediately, or as soon as their share can be ascertained, and the tenant for life will take nothing. But if real estate be settled in trust for an infant for life, with remainder to his sons successively in tail, will the surplus belong to the first son at his birth, and whether he attains twenty-one or not, or to the person who becomes entitled to the fee-simple, either as ultimate remainderman or reversioner, or under a disentailing assurance?

And wherever, on the infant attaining twenty-one, the person ultimately entitled is not ascertained, what is to be done with the future income of the surplus? Take the following case:—

Property is held in trust for an infant for life, and at his death for such of his children as shall be then living. The tenant for life will not be entitled to the future income of the accumulated surplus, because he is not the person ultimately entitled to the property, and the children who may become entitled cannot be ascertained till his death. Is the *Thellusson Act* partially repealed? If not, at the end of twenty-one years from the settlor's death, it will step in and admit the settlor's real or personal representatives, to make confusion worse confounded.

Lastly, what is meant by "proper securities"—those mentioned in the 25th section? Are real securities excluded, such securities being admissible under the powers usually inserted?

S. S. W.

Lincoln's-inn, Nov. 27.

WALTER COULSON, Esq.—We have to record the death of this gentleman, for several years past the parliamentary counsel to the Home Office. He was called to the Bar in Michaelmas Term, 1823, where he attained considerable eminence as a conveyancer. The deceased was a Queen's Counsel and a Bencher of Gray's Inn.

## EXAMINATIONS AT THE INCORPORATED LAW SOCIETY.

MICHAELMAS TERM, 1860.

At the examination of candidates for admission on the roll of attorneys and solicitors of the Superior Courts, the Examiners recommended the following gentlemen, under the age of twenty-six, as being entitled to honorary distinction:—

Frederick James Hawkins, aged twenty-five, who served his clerkship to Messrs. Forshaw & Goodman, of Liverpool; Richard Finch, aged twenty-one, who served his clerkship to Mr. John Mayhew, of Wigan, and Messrs. Sharpe, Jackson, & Parker, of London; Arthur Jackson, aged twenty-one, who served his clerkship to Mr. Edward Jackson, of London and Wisbeach; Frederic William Tomkinson, aged twenty-two, who served his clerkship to Mr. Richard Heaton, of Burslem.

The Council of the Incorporated Law Society have accordingly awarded the following prizes of books:—

To Mr. Hawkins, the prize of the Honourable Society of Clifford's-inn; to Mr. Finch, one of the prizes of the Incorporated Law Society; to Mr. Jackson, one of the prizes of the Incorporated Law Society; and to Mr. Tomkinson, one of the prizes of the Incorporated Law Society.

The Examiners have also certified that the following candidates, whose names are placed in alphabetical order, passed examinations which entitle them to commendation:—

Thomas Mathias Baker, aged twenty-one, who served his clerkship to Mr. John Baker, of Great Yarmouth, and Mr. Charles Francis Fisher, of Ventnor, Isle of Wight; William Charles Dalrymple, aged twenty-five, who served his clerkship to Mr. Charles Frederick Robinson, of London; Joseph Augustus Hellard, aged twenty-two, who served his clerkship to Messrs. Hellard, of Portsmouth, and Messrs. Williamson, Hill, & Co., of London; Gabriel Lindo, aged twenty-two, who served his clerkship to Messrs. Cooper & Hodgson, of London, and Mr. Nathaniel Lindo, of London; William Rogers, aged twenty-three, who served his clerkship to Mr. James Johnston, of London; and Henry Steedman, aged twenty-three, who served his clerkship to Mr. Lindsey Wm. Winterbotham, of Stroud, and Messrs. Lewis, Wood, & Street, of London.

The Council have accordingly awarded them certificates of merit.

The Examiners have further announced to the following candidates that their answers to the questions at the examination were highly satisfactory, and would have entitled them to prizes or certificates of merit if they had been under the age of twenty-six:—

Basil Field, B.A., aged twenty-six, who served his clerkship to Messrs. Field & Roscoe, of London; Richard Wm. Davis Clarence Halse, aged thirty-two, who served his clerkship to Messrs. Head & Venn, of Exeter; Robert Hart, aged twenty-six, who served his clerkship to Messrs. Chilton & Burton, of London; Edward Fleetwood Kempson, aged twenty-six, who served his clerkship to Mr. Wm. Blackman Young, of Hastings, Messrs. Sharpe, Field, & Jackson, of London, and Messrs. Lawrance, Plews, & Boyer, of London; Dalton Thomas Miller, aged thirty, who served his clerkship to Messrs. Chilton & Burton, of London; James Stockton, aged thirty-three, who served his clerkship to Mr. William Munton, of Banbury; William Wigglesworth, aged thirty-one, who served his clerkship to Messrs. Bagshaw & Son, of Manchester.

The number of candidates examined in this term was 146; of these 130 were passed, and 16 postponed.

By Order of the Council,

ROBERT MAUGHAM, Secretary.

Law Society's Hall, Nov. 16, 1860.

**Court Papers.****EQUITY SITTINGS, AFTER MICHAELMAS TERM, 1880.****Court of Chancery.***Before the LORD CHANCELLOR.**At Lincoln's Inn.*

Tuesday .... Dec. 4	{ First Seal.—Appeal Motions and Appeals.
Wednesday .... 5	{ Petitions and Appeals.
Thursday ..... 6	{ Appeals.
Friday ..... 7	
Saturday ..... 8	
Monday ..... 10	
Tuesday ..... 11	
Wednesday .... 12	{ Second Seal.—Appeal Motions and Appeals.
Thursday ..... 13	
Friday ..... 14	{ Appeals.
Saturday ..... 15	
Monday ..... 17	
Tuesday ..... 18	
Wednesday .... 19	{ Third Seal.—Appeal Motions and Appeals.
Thursday ..... 20	
Friday ..... 21	
Saturday ..... 22	

*Before the LORDS JUSTICES.**At Lincoln's Inn.*

Tuesday .... Dec. 4	{ First Seal.—Appeal Motions and Appeals.
Wednesday .... 5	{ Appeals.
Thursday ..... 6	{ Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Friday ..... 7	
Saturday ..... 8	{ Appeals.
Monday ..... 10	
Tuesday ..... 11	
Wednesday .... 12	
Thursday ..... 13	{ Second Seal.—Appeal Motions and Appeals.
Friday ..... 14	{ Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Saturday ..... 15	{ Appeals.
Monday ..... 17	
Tuesday ..... 18	
Wednesday .... 19	
Thursday ..... 20	{ Third Seal.—Appeal Motions and Appeals.
Friday ..... 21	{ Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Saturday ..... 22	{ Appeals.

*Notice.*—The days (if any) on which the Lords Justices shall be engaged in the full Court, or at the Judicial Committee of the Privy Council, are excepted.

*Before the MASTER OF THE ROLLS.**At Chancery-lane.*

Tuesday .... Dec. 4	{ First Seal.—Motions.
Wednesday .... 5	{ General Paper.
Thursday ..... 6	
Friday ..... 7	
Saturday ..... 8	
Monday ..... 10	{ Petitions, Short Causes, Adjourned Summonses, and General Paper.
Tuesday ..... 11	{ General Paper.
Wednesday .... 12	{ Second Seal.—Motions.
Thursday ..... 13	
Friday ..... 14	{ General Paper.
Saturday ..... 15	{ Petitions, Short Causes, Adjourned Summonses, and General Paper.
Monday ..... 17	{ General Paper.
Tuesday ..... 18	
Wednesday .... 19	
Thursday ..... 20	

Friday ..... 21	{ General Paper.
Saturday ..... 22	{ Petitions, Short Causes, Adjourned Summonses, and General Paper.

The Unopposed Petitions will be taken first, and must be presented, and copies left with the Secretary, on or before the Thursday preceding the Saturday on which it is intended they should be heard.

*Before the Vice-Chancellor Sir RICHARD T. KINDERSLEY.**At Lincoln's Inn.*

Tuesday .... Dec. 4	{ First Seal.—Motions and General Paper.
Wednesday .... 5	{ General Paper.
Thursday ..... 6	{ Petitions.
Friday ..... 7	
Saturday ..... 8	{ Short Causes, Adjourned Summonses, and General Paper.
Monday ..... 10	{ General Paper.
Tuesday ..... 11	
Wednesday .... 12	
Thursday ..... 13	{ Second Seal.—Motions and General Paper.
Friday ..... 14	{ Petitions.
Saturday ..... 15	{ Short Causes, Adjourned Summonses, and General Paper.
Monday ..... 17	{ General Paper.
Tuesday ..... 18	
Wednesday .... 19	{ Third Seal.—Motions and General Paper.
Thursday ..... 20	
Friday ..... 21	{ Petitions.
Saturday ..... 22	{ Short Causes, Adjourned Summonses, and General Paper.

*Before the Vice-Chancellor Sir JOHN STUART.**At Lincoln's Inn.*

Tuesday .... Dec. 4	{ First Seal.—Motions and General Paper.
Wednesday .... 5	{ General Paper.
Thursday ..... 6	{ Petitions and General Paper.
Friday ..... 7	
Saturday ..... 8	{ Short Causes and General Paper.
Monday ..... 10	{ General Paper.
Tuesday ..... 11	
Wednesday .... 12	{ Second Seal.—Motions and General Paper.
Thursday ..... 13	
Friday ..... 14	{ Petitions and General Paper.
Saturday ..... 15	{ Short Causes and General Paper.
Monday ..... 17	{ General Paper.
Tuesday ..... 18	
Wednesday .... 19	{ Third Seal.—Motions and General Paper.
Thursday ..... 20	
Friday ..... 21	{ Petitions and General Paper.
Saturday ..... 22	{ Short Causes and General Paper.

*Before the Vice-Chancellor Sir W. P. WOOD.**At Lincoln's Inn.*

Tuesday .... Dec. 4	{ First Seal.—Motions and General Paper.
Wednesday .... 5	{ General Paper.
Thursday ..... 6	
Friday ..... 7	
Saturday ..... 8	{ Petitions, Short Causes, and General Paper.
Monday ..... 10	{ General Paper.
Tuesday ..... 11	
Wednesday .... 12	{ Second Seal.—Motions and General Paper.
Thursday ..... 13	
Friday ..... 14	{ General Paper.
Saturday ..... 15	{ Petitions, Short Causes, and General Paper.
Monday ..... 17	{ General Paper.
Tuesday ..... 18	
Wednesday .... 19	

Thursday .....	20	{ Third Seal.—Motions and General Paper.
Friday .....	21	{ General Paper.
Saturday .....	22	{ Petitions, Short Causes, and General Paper.

## WINTER CIRCUITS.

*Cheshire*—Thursday, Dec. 6, at Chester.  
*Devonshire*—Saturday, Dec. 15, at the Castle of Exeter.  
*Exeter (City of)*—Same day, at the Guildhall of the said city.  
*Durham*—Wednesday, Dec. 5, at the Castle of Durham.  
*Essex*—Wednesday, Dec. 19, at Chelmsford.  
*Glamorganshire*—Saturday, Dec. 1, at Cardiff.  
*Gloucestershire*—Wednesday, Dec. 5, at Gloucester.  
*Gloucester (City of)*—Same day, at the city of Gloucester.  
*Kent*—Saturday, Dec. 1, at Maidstone.  
*Leicestershire*—Monday, Dec. 3, at the Castle of Leicester.  
*Leicester (Borough of)*—Same day, at the borough of Leicester.  
*Lincolnshire*—Wednesday, Dec. 5, at the Castle of Lincoln.  
*Lincoln (City of)*—Same day, at the city of Lincoln.  
*Northamptonshire*—Monday, Dec. 10, at Northampton.  
*Northumberland*—Monday, Dec. 3, at the Castle of Newcastle-upon-Tyne.  
*Newcastle-upon-Tyne (Town of)*—Same day, at the Guildhall of the said town.  
*Southampton*—Saturday, Dec. 8, at the Castle of Winchester.  
*Staffordshire*—Friday, Dec. 14, at Stafford.  
*Warwickshire*—Wednesday, Dec. 12, at Warwick.  
*Worcestershire*—Monday, Dec. 10, at Worcester.  
*Worcester (City of)*—Same day, at the city of Worcester.  
*Yorkshire*—Saturday, Dec. 8, at the Castle of York.  
*York (City of)*—Same day, at the Guildhall of the said city.

**LAW AMENDMENT SOCIETY.**—A meeting of this Society was held on the 19th November, at its rooms, 3, Waterloo-place. Lord Brougham, the President of the Society, in the chair.

**NEW LAW COURTS.**—The Government, acting in pursuance of the recommendation of "the Commissioners appointed to inquire into the expediency of bringing the Courts together into one place or neighbourhood, and for other purposes," (*supra*, p. 290), have given notice to the necessary parties for the purpose of obtaining an act of Parliament to authorise the purchase of the required site for the New Law Courts.

**JAMES TOMEY**, Queen's-road, Chelsea, Middlesex, grocer, Dec. 8 and Jan. 8 at 12, London: Off. Ass. Bell; Sols. Matthews & Co., 102, Leadenhall-street.—Pet. f. Nov. 15.  
**RICHARD GEORGE PAPPS**, Barbican, City, builder, Dec. 6 at 11, and Jan. 3 at 1, London: Off. Ass. Johnson; Sols. Messrs. Lumley, 41, Ludgate-hill.—Pet. f. Nov. 23.  
**WILLIAM REED**, Dorset-street, Portman-square, Middlesex, builder, Dec. 7 and Jan. 9 at 11, London: Off. Ass. Pennell; Sol. Sadler, 28, Golden-square, London.—Pet. f. Nov. 26.  
**HENRY JOHN MITCHELL**, Park-st., Grosvenor-square, Middlesex, licensed victualler, Dec. 7 at half-past 2, and Jan. 12 at 12, London: Off. Ass. Edwards; Sols. Harrison & Lewis, 6, Old Jewry, London.—Pet. f. Nov. 26.  
**EDWARD THOMAS**, Walsall, Staffordshire, ironmaster, Dec. 14 and Jan. 17 at 11, Birmingham: Off. Ass. Whitmore; Sols. Hodgson & Allen, Birmingham.—Pet. d. Nov. 26.  
**BENJAMIN RICHARDSON**, Wordsley, Staffordshire, glass manufacturer, Dec. 7 and Jan. 17 at 11, Birmingham: Off. Ass. Kinnear; Sols. James & Knight, Birmingham; Bolton & Sanders, and Wainwright, Dudley.—Pet. d. Nov. 8.  
**THOMAS SADLER REED**, Derby, silk manufacturer, Dec. 11 and Jan. 15 at half-past 11, Nottingham: Off. Ass. Harris; Sols. James & Knight, Birmingham.—Pet. d. Nov. 23.  
**BENJAMIN RHODES** and **GEORGE RHODES**, Nottingham, brassfounders, Dec. 13 and Jan. 10 at 11, Nottingham: Off. Ass. Harris; Sols. Hunt & Son, Nottingham.—Pet. d. Nov. 24.

**WILLIAM RICHARDS**, Pontypridd, Glamorganshire, commission agent, Dec. 10 and Jan. 8 at 11, Bristol: Off. Ass. Miller; Sols. Bevan & Co., Bristol.—Pet. f. Nov. 20.  
**WILLIAM FAIRBRIDGE** the younger, Redcar, Yorkshire, butcher, Dec. 10 and Jan. 7 at 11, Leeds: Off. Ass. Hope; Sols. Cariss & Cudworth, Leeds.—Pet. d. Nov. 26.  
**WILLIAM FAIRBRIDGE**, Coatham, Kirkleatham, Yorkshire, butcher, Dec. 10 and Jan. 7 at 11, Leeds: Off. Ass. Hope; Sols. Cariss & Cudworth, Leeds.—Pet. d. Nov. 26.  
**EDWIN DAWSON**, Sheffield, Yorkshire, music seller, Dec. 8 and Jan. 12 at 10, Sheffield: Off. Ass. Brewin; Sol. Unwin, Sheffield.—Pet. d. Nov. 22; f. Nov. 23.  
**ANDREW IRWIN BIRRELL**, Liverpool, licensed victualler, Dec. 10 and 28 at 11, Liverpool: Off. Ass. Turner; Sol. Conway, Liverpool.—Pet. f. Nov. 21.  
**MARIA COWARD**, Church Coniston, Lancashire, grocer, Dec. 14 and Jan. 11 at 13, Manchester: Off. Ass. Herniman; Sols. Sale & Co., Manchester.—Pet. f. Nov. 17.  
**PETER SHERRATT**, Macclesfield, Cheshire, silk manufacturer, Dec. 19 and Jan. 9 at 12, Manchester: Off. Ass. Fraser; Sols. Allen & Aston, Manchester.—Pet. f. Nov. 23.  
**EDWARD TURNER**, March Side, Kirby, near Broughton in Furness, Lancashire, grocer, Dec. 7 and Jan. 4 at 12, Manchester: Off. Ass. Fraser; Sols. Musgrave, Whitehaven; J. & R. Cooper, Manchester.—Pet. f. Nov. 14.

## MEETINGS.

**James McClure** the younger, Manchester, Manchester warehouseman, Dec. 18 at 12, Manchester, aud. ac.; Dec. 19 at 12, div.—**J. Milligan**, Chorlton-upon-Medlock, Manchester, draper, Dec. 14 at 12, Manchester, aud. ac.; Dec. 21 at 12, div.—**John Barber**, Manchester, machine maker, Dec. 20 at 12, Manchester, aud. ac.; Dec. 21 at 12, div.—**William Ogilvy Pearson**, Gresham-street, City, silk agent, Dec. 20 at half-past 12, London, div.—**Nathan Benjamin** and **Edwin Dipple**, New-cut, Lambeth, Surrey, gas fitters, Dec. 20 at 1, London, div.—**James Herbert Smith**, Wyld's-rents, Bermondsey, Surrey, tanner, Dec. 19 at 11, London, div.—**Wm. Paskell Garrard**, Little Tower-street, City, wine merchant, Dec. 19 at 12, London, div.—**John Ashby**, Carlisle-street, Soho, Middlesex, builder, Dec. 19 at 1, London, div.—**Surgen Moss**, Swansea, Glamorganshire, ship broker, Dec. 20 at 11, Bristol, div.—**David Stodhart Oliver**, Holy-cross, Bristol, wine merchant, Dec. 20 at 11, Bristol, div.—**John Rodgers**, North Shields, Northumberland, draper, Dec. 19 at 12, Newcastle-upon-Tyne, first and fin. div.—**Thomas Lightfoot**, Sunderland, Durham, ship builder, Dec. 19 at 12, Newcastle-upon-Tyne, fin. div.

## CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

**Thomas Griffin**, Hampton-terrace, Hampstead-road, Middlesex, bookseller, Dec. 18 at 1, London.—**Thomas Short**, Park-street, Camden-town, Middlesex, tailor, Dec. 21 at 12, London.—**Robert Oliver**, Wilmington-street, Wilmington-square, Clerkenwell, Middlesex, manufacturing jeweller, Dec. 20 at 2, London.—**William Ogilvy Pearson**, Milton-road, Gravesend, Kent, silk agent, Dec. 20 at half-past 12, London.—**James Kaye**, Richmond-place, St. George's-road, Southwark, Surrey, architect, Dec. 20 at half-past 11, London.—**Philip Arnold**, Luton, Bedfordshire, straw-plait merchant, Dec. 20 at half-past 11, London.—**Nathan Benjamin** and **Edwin Dipple**, New-cut, Lambeth, Surrey, gasfitters, Dec. 20 at 1, London.—**Frederick August Gross**, Newcastle-upon-Tyne, furniture dealer, Dec. 20 at 12, Newcastle-upon-Tyne.—**John Barber**, Manchester, machine maker, Dec. 21 at 12, Manchester.—**James Taylor Rogerson**, Salford, Lancashire, cotton-waste dealer, Dec. 20 at 12, Manchester.—**Henry Edwards**, Birmingham, merchant, Jan. 18 at 11, Birmingham.

*To be granted, unless an Appeal be duly entered.*

**Charles Pavia**, Lime-street, City, merchant.—**Saving Luckeuck**, White-horse-yard, Liverpool-road, Islington, Middlesex, livery-stable keeper.—**William Monk**, Padham, Lancashire, manufacturer.—**Thomas Price**, Evesham, Worcestershire, market gardener.—**Thomas Law Holdick**, Hincley, Leicestershire, ironmonger.—**Benjamin Richards**, **John Richards**, and **Thomas Richards**, West Bromwich, Staffordshire, ironmasters.—**Benjamin Jones**, West Bromwich, Staffordshire, cornfactor.—**George Carencell**, Shrewsbury, Shropshire, innkeeper.

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See Law List, 1860, pages 826 and 827.

V V

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**ARCHIBALD HINTON**, Highbury, Middlesex, victualler, Dec. 18 and Jan. 17 at 1, London: Off. Ass. Johnson; Sols. Norton & Co., New-street, Bishopsgate.—Pet. f. Nov. 3.

**CHARLES HEATH**, Southampton, coffee-house keeper, Dec. 11 at half-past 12, and Jan. 9 at 12, London: Off. Ass. Graham; Sol. Weymouth, 13, Clifford's-lan, London.—Pet. f. Nov. 27.

**MATTHEW HUTCHINSON**, Mark-lane, City, and Paragon, Blackheath, Kent, hemp dealer, (trading under the firm of Matthew Hutchinson & Son), Dec. 12 at 1, and Jan. 14 at 12, London: Off. Ass. Pennell; Sols. Hensman & Nicholson, 25, College-hill, London.—Pet. f. Nov. 27.

**HENRY MARTIN**, Southampton, tailor, Dec. 12 at half-past 1, and Jan. 14 at 1, London: Off. Ass. Pennell; Sols. Mackey, Southampton; Paterson & Son, 7, Bouverie-st., Fleet-street, London.—Pet. f. Nov. 27.

**HENRY PACE**, Broad-street-buildings, City, merchant, (trading under the style or firm of Henry Pace & Co.), Dec. 11 at half-past 1, and Jan. 15 at 1, London: Off. Ass. Edwards; Sol. Voules, 16, Gresham-street, London.—Pet. f. Nov. 28.

**WILLIAM NORTH REES**, Gracechurch-street, City, printer, Dec. 11 at half-past 2, and Jan. 15 at 12, London: Off. Ass. Lee; Sols. Sole & Co., 68, Aldermanbury, London.—Pet. f. Nov. 27.

**THOMAS TOWNSON**, Leamington Priors, Warwickshire, chemist, Dec. 10 and Jan. 14 at 11, Birmingham: Off. Ass. Kinneer; Sols. Heath, Leamington; James & Knight, Birmingham.—Pet. d. Nov. 21.

**JOSEPH CROFTS**, Walsall, Staffordshire, builder, Dec. 13 and Jan. 17 at 11, Birmingham: Off. Ass. Whitmore; Sols. Dulgman & Ebbeworth, Walsall.—Pet. d. Nov. 23.

**SAMUEL HOWARD COOMBS**, Oswestry, Shropshire, bootmaker, Dec. 18 and Jan. 17 at 11, Birmingham: Off. Ass. Whitmore; Sols. T. & C. Minshall, Oswestry; James & Knight, Birmingham.—Pet. d. Nov. 29.

**WILLIAM GIBSON**, Castle Donington, Leicestershire, draper, Dec. 11 and 27 at half-past 11, Nottingham: Off. Ass. Harris; Sol. Hulsh, Castle Donington.—Pet. d. Nov. 27.

**JOHN MACINTOSH**, Merthyr Tydfil, Glamorganshire, draper, Dec. 11 and Jan. 8 at 11, Bristol: Off. Ass. Miller; Sols. Bevan & Co., Bristol.—Pet. f. Nov. 17.

**SAMUEL DAVIES**, Tredegar, Monmouthshire, draper, Dec. 11 and Jan. 8 at 11, Bristol: Off. Ass. Miller; Sols. Gregory & Son, Bristol.—Pet. f. Nov. 26.

**WILLIAM ARNOLD**, Newchurch West, Monmouthshire, innkeeper, Dec. 11 and Jan. 8 at 11, Bristol: Off. Ass. Miller; Sols. Batt, Abergavenny; Bevan & Co., Bristol.—Pet. f. Nov. 16.

**JOSEPH BARBER HIRST**, Holme, Almondsbury, Yorkshire, cloth manufacturer, Dec. 10 and Jan. 7 at 11, Leeds: Off. Ass. Hope; Sols. Brook & Co., Huddersfield; Bond & Barwick, Leeds.—Pet. d. Nov. 20.

**MATTHEW HENRY WILTON**, Southport, Lancashire, grocer, Dec. 14 and Jan. 4 at 11, Liverpool: Off. Ass. Morgan; Sols. Forshaw & Goodman, Liverpool.—Pet. d. Nov. 29.

## MEETINGS.

*Joseph Clarke*, Kidderminster and Bewdley, Worcestershire, tanner, Dec. 11 at 12, London, last ex.; Dec. 12 at 1, aud. ac.—*Stephen Rogers*, Carnaby-street, Regent-street, Middlesex, licensed victualler, Dec. 11 at 11, London, last ex.—*Jas. Knight* the younger, Barge-yard-chambers, Bucklersbury, City, scrivener, Dec. 13 at half-past 12, London, aud. ac.—*William Harry Vickers*, Suffolk-place, Lower-road, Islington, Middlesex, butcher, Dec. 11 at half-past 11, London, aud. ac.—*Robert Folkhard Adams*, Stowmarket, Suffolk, pipemaker, Dec. 13 at half-past 1, London, aud. ac.

—*James Josiah Stephenson*, Crawford-street, Bryanston-square, Middlesex, cabinet maker, Dec. 12 at 12, London, aud. ac.; Dec. 21 at 11, div.—*William John Cox*, Fetter-lane, City, grocer, Dec. 12 at half-past 11, London, aud. ac.—*Charles Jones Thomas*, Newport, Monmouthshire, bonded store merchant, Jan. 3 at 11, Bristol, aud. ac.—*J. M'Master and Samuel Haines*, Abergavenny, Monmouthshire, drapers, Jan. 3 at 11, Bristol, aud. ac.—*Thomas Plummer Dunn*, Woodchester, Gloucestershire, woollen flock dealer, Dec. 30 at 11, Bristol, aud. ac.—*John Carmichael*, Liverpool, merchant, Dec. 17 at 11, Liverpool, aud. ac.; Dec. 20 at 11, div.—*Henry B. Gaskell*, Liverpool, broker, Dec. 12 at 11, Liverpool, aud. ac.—*John Addinell*, Stockton-upon-Tees, Durham, druggist, Dec. 12 at half-past 11, Newcastle-upon-Tyne, aud. ac.—*Joseph Philipson*, Newcastle-upon-Tyne, milliner, Dec. 12 at 1, Newcastle-upon-Tyne, aud. ac.—*Thomas Charlton Bell*, Durham, corn miller, Dec. 14 at half-past 11, Newcastle-upon-Tyne, aud. ac.—*C. Langridge and J. Midgley*, Manchester, drysalers, Dec. 12 at 12, Manchester, aud. ac. sep. est. of *J. Midgley*.—*H. Mabson*, Ecclesfield, Yorkshire, butcher, Dec. 15 at 10, Sheffield, aud. ac.—*T. Best and Wm. J. Best*, Sheffield, Yorkshire, merchants, Dec. 15 at 10, Sheffield, aud. ac. sep. est. of *Wm. J. Best*.—*Wm. Goodall Gibson*, Godalming, Surrey, farmer, Dec. 21 at half-past 11, London, div.—*Edward Morris Watson*, Tottenham-court-road, Middlesex, linendraper, Dec. 21 at half-past 1, London, div.—*Demetrio Antonio di Demetrio*, New Broad-street, City, merchant, Dec. 21 at 1, London, div.—*A. Danic*, Alexander-square, Brompton, Middlesex, merchant, Dec. 21 at 11, London, div.—*William Jones*, Aldershot, Hampshire, tailor, Dec. 21 at 11, London, div.—*Kemp Goldsmith*, Sutton, near Ely, Cambridgeshire, miller, Dec. 21 at 12, London, div.—*Thomas Hustler Pars*, Newmarket St. Mary, Suffolk, grocer, Dec. 21 at 12, London, div.—*Francis Bennett John Read*, Leadenhall-market, City, and Upper North-street, Bethnal-green, Middlesex, butcher, Dec. 21 at 11, London, div.—*Richard Limbrick*, Bilton, Gloucestershire, miller, Jan. 3 at 11, Bristol, div.—*George Vickery Wakefield and Robert Birt*, Swansea, Glamorganshire, hotel-keepers, Dec. 21 at 11, Bristol, div.—*Wm. Gilyard and Samuel Brown*, Bradford, Yorkshire, machine wool combers, Dec. 21 at 11, Leeds, div. joint and sep. ests.—*John Peter Flint*, Sheffield, Yorkshire, plumber, Dec. 22 at 10, Sheffield, div.—*Thos. Clark*, Bradford, Yorkshire, paper merchant, Dec. 21 at 11, Leeds, div.

## CERTIFICATES.

*To be allowed, unless Cause be shown to the contrary on or before the Day of Meeting.*

*Charles Stanbridge*, Cheapside, City, merchant, Dec. 21 at 11, London.—*Charles Pritchard*, East-place, West-pla, Lambeth, Surrey, plumber, Dec. 21 at 11, London.—*Eliza Pacher*, Aldgate High-street, City, shoemaker, Dec. 21 at half-past 12, London.—*Edward Morris Watson*, Tottenham-court-road, Middlesex, linendraper, Dec. 21 at half-past 1, London.—*John Tripp*, Cross-street, Walworth, Surrey, tallowchandler, Dec. 21 at 1, London.—*J. Tourey Burgen*, Bucklersbury, City, wholesale hardwareman, Dec. 21 at half-past 2, London.—*Wm. Francis Crofts*, Castle-street East, Oxford-street, Middlesex, printer, Dec. 21 at 2, London.—*John Hullah*, St. Martin's Hall, Long-acre, and Langham-street, Portland-place, Middlesex, bookseller, Dec. 21 at 1, London.—*Samuel Randle*, Plymouth, Devonshire, auctioneer, Dec. 31 at half-past 12, Plymouth.—*Wm. Turpin*, Plymouth, Devonshire, draper, Dec. 31 at half-past 12, Plymouth.—*Thomas Jarvis Harris*, Plymouth, Devonshire, mercer, Dec. 31 at half-past 12, Plymouth.—*John Cartwright*, Frankton, Whittington, Shropshire, builder, Jan. 14 at 11, Birmingham.

*To be granted, unless an Appeal be duly entered.*

*Henry Pratt Ballard and Samuel Newcome*, Coventry, ribbon manufacturers.—*Philip Walters*, Wolverhampton, Staffordshire, auctioneer.—*T. Elvins Pountney*, Bromsgrove, Worcestershire, licensed victualler.—*John Bissell Clark*, Droitwich, Worcestershire, salt manufacturer.—*James Nutt*, Leadenhall-street, City, jeweller.—*Charles Ballard*, Brownlow-place, Queen's-road, Dalston, Middlesex, shoe manufacturer.—*Wm. Pickford*, Fenchurch-street, City, merchant.—*Wm. Rushworth Sims and Arthur Rushworth Sims*, Fish-street-hill, City, merchants.—*Edward Wetherstone*, Chel-

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## THE JURIST.

LONDON, DECEMBER 8, 1860.

WE proceed with our analysis of the Common-law Procedure Act, 1860, (23 & 24 Vict. c. 126), commenced last week.

Continuing the first head of the subject, "Extension of Jurisdiction," we come to "Interpleader proceedings," and here the jurisdiction is very greatly extended. First, by sect. 12, where an action has been commenced in respect of a common-law claim for the recovery of money or goods, or where goods or chattels have been taken, or are intended to be taken, in execution under process, and the defendant in such action, or the sheriff or other officer, has applied for relief under the provisions of the Interpleader Act, 1 & 2 Will. 4, c. 58,

"it shall be lawful for the court or a judge to whom such application is made to exercise all the powers and authorities given to them by this act and the hereinbefore-mentioned act, though the titles of the claimants to the money, goods, or chattels in question, or to the proceeds or value thereof, have not a common origin, but are adverse to and independent of one another." And by sect. 13, "when goods or chattels have been seized in execution by a sheriff or other officer under process of the above-mentioned Courts, and some third person claims to be entitled, under a bill of sale or otherwise, to such goods or chattels, by way of security for a debt, the court or a judge may order a sale of the whole or part thereof, upon such terms, as to payment of the whole or part of the secured debt, or otherwise, as they or he shall think fit, and may direct the application of the proceeds of such sale in such manner and



upon such terms as to such court or judge may seem just." And the discretion of the court or judge is still further extended by the next section, (sect. 14), which enacts, "Upon the hearing of any rule or order calling upon persons to appear and state the nature and particulars of their claims, it shall be lawful for the court or judge, wherever, from the smallness of the amount in dispute or of the value of the goods seized, it shall appear to them or him desirable and right so to do, at the request of either party, to dispose of the merits of the respective claims of such parties, and to determine the same in a summary manner, upon such terms as they or he shall think fit to impose, and to make such other rules and orders therein as to costs and all other matters as may be just." By sects. 16 and 17, where, in interpleader proceedings, the question is one of law, and the facts are not in dispute, the judge shall be at liberty, at his discretion, to decide the question without directing an action or issue, and, if he shall think it desirable, to order that a special case be stated for the opinion of the Court. The 17th section directs that "the judgment in any such action or issue as may be directed by the court or judge in any interpleader proceedings, and the decision of the court or judge in a summary manner, shall be final and conclusive against the parties, and all persons claiming by, from, or under them." And by sect. 18, "all rules, orders, matters, and decisions to be made and done in interpleader proceedings under this act (excepting only any affidavits) may, together with the declaration in the cause, if any, be entered of record, with a note in the margin expressing the true date of such entry, to the end that the same may be evidence in future times, if required, and to secure and enforce the payment of costs directed by such rule or order; and every such rule or order so entered shall have the force and effect of a judgment in the superior courts of common law."

The process of foreign attachment, borrowed from the Lord Mayor's Court, and introduced into the general law by the Common-law Procedure Act, 1854, has received several amendments by the present statute. Thus the judge may, in his discretion, refuse to interfere where, from the smallness of the amount to be recovered, or of the debt sought to be attached, or otherwise, the remedy sought would be worthless or vexatious. (Sect. 28). Whenever it is suggested by the garnishee that the debt sought to be attached belongs to some third person who has a lien or charge upon it, the judge may order that person to appear and state the nature and particulars of his claim; and "after hearing the allegations" (it is to be observed that the Legislature has not added the words "and the evidence" or "proofs," or any language to that effect) "of that person, and of any other person whom the judge may call before him, or in case that third person shall not appear, the judge may order execution to levy the amount due from the garnishee, or the judgment creditor to proceed against the garnishee, and may bar the claim of such third person, or make such other order as he shall think fit, upon such terms, in all cases, with respect to the lien or charge, if any, of such third person, and to costs, as he shall think just and reasonable." (Sects. 29, 30, and 31).

The only other instances of extension of jurisdiction in this statute are to be found in the 22nd and 36th sections. By the former of these the provisions of the County Court Amendment Act, 19 & 20 Vict. c. 108, ss. 63-68, relative to replevin, are extended to all cases of replevin, as well as to the cases of replevin of goods distrained for rent or damage feasant; and by the latter, the Common-law Procedure Act, 1854, sect. 88, is repealed, and the superior courts or any judge thereof may, upon summary application, by rule or order, exercise such and the like jurisdiction as may be exercised by the Court of Chancery under the Mer-

chant Shipping Act, 17 & 18 Vict. c. 104, pt. 9. This is another step in the direction of the fusion of law and equity.

(To be continued).

## Correspondence.

TO THE EDITOR OF "THE JURIST."

SIR,—In your article of the 24th ult. on the Trustees and Mortgagees Act you made one or two criticisms which appear to me to be at least of doubtful justice.

Although I concur in many of your remarks, and also think the principle of the act a bad one, and certain, even though embodied in statutes as carefully drawn as that under consideration, to have very mischievous consequences, yet it seems to me that some of the faults discovered in this act do not really exist.

First, you suppose the case of a speculative testator directing his trustees to invest "in the bonds or other securities of some bran new republic in another hemisphere;" and you say, that, "according to the 25th section, trustees, unless the operation of this act is expressly excluded, (see sect. 32), may neglect to invest monies at interest in the mode pointed out by the instrument creating the trust, and may thereby materially affect the interest of persons entitled to the trust funds, or the income thereof, in succession." Now, is this proposition so certain? The section does not appear to me to justify the trustees in neglecting such a direction as you suggest. If it is only a power, they will, it is true, also have power, under sect. 25, to invest in the securities there mentioned, as before the act passed they would have had power to invest also in Consols. If, however, the direction is really imperative, the trustees will not, I submit, be absolved from its obligation by the act. Even the 25th section, read by itself, does not appear to mean more than this:—It says that "trustees having trust money in their hands, which it is their duty to invest at interest, shall be at liberty" to invest in the manner there pointed out. The plain sense of such an enactment must surely be, that in the absence, not in contravention, of directions by the creator of the trust, the trustees shall have the power thereby conferred. If, however, it can be doubted whether this is the meaning of the section by itself, the 32nd section appears to make that meaning plain. Would not such a direction be a variation or limitation of a power or incident conferred or annexed by the act?

Secondly, the words in the 34th section, "except as hereinbefore otherwise provided," (not "hereinafter provided," as by a typographical error they are cited in the article), are not surplusage, as I think you will see on referring to the latter part of the 22nd section, where powers are given to trustees "appointed by the Court of Chancery, either before or after the passing of this act." The exception appears to be needed on account of this passage, if not for any other purpose.

Thirdly, a very important question is raised by such remarks as those made in your article with reference to several of the provisions of this act, and of which that respecting sect. 30 may be taken as an instance. This, you observe, "will be useful when a conveyancer may have omitted to insert a more perfect form."

Now, what is the duty of conveyancers with reference to such enactments as those of this act? Few more difficult problems, perhaps, can be given to a man of business than to do his duty under the conditions imposed on him by such changes of the law; for it will undoubtedly require much consideration to determine, in particular cases, whether the provisions of this act may be relied on in substitution for those which it has been the practice to insert in deeds and wills. To rely on the act is, moreover, to incur great responsibility.

But does this justify a practitioner in summarily declining to make use of the statutory provisions? Must not he find out how far the act will apply to the cases which come before him, and so far use it? Is he not otherwise availing himself improperly of his power as a lawyer to deprive the makers of deeds and wills of the benefits conferred on them by the Legislature? And is he not setting himself up impertinently to obstruct, for his private ease, or in deference to his own opinion or caprice, the course of the law? Further: will the Taxing Masters allow the costs of clauses, the necessity for which is dispensed with by act of Parliament, merely because the attorney or his counsel has not satisfied himself that it is not needed? On the other hand, can the Taxing Masters undertake, or can they be permitted to undertake, any such office as that of determining what a deed should or should not contain?

I do not venture to do more than suggest these questions; but I think that they cannot be answered in such a manner as to justify a refusal to rely on the provisions of the act merely because there can be inserted in a draft "a more perfect form."

I am, Sir, your obedient servant,

J. S. V.

#### TO THE EDITOR OF "THE JURIST."

SIR,—With reference to your comments on the Trustees and Mortgagees Act, 23 & 24 Vict. c. 145, it may be of use to you readers to point out that you are in error in saying, at p. 424, that no part of the act is retrospective. The 27th section provides that trustees appointed by the Court of Chancery, either before or after the passing of the act, shall have the same powers, &c. as if appointed by the original will or settlement. It is to this provision that the exception in the 34th section refers.

Permit me to add, that in my humble judgment there is much to be said in answer to your other observations on the act, though I will not ask for space to carry on a discussion which would not be very profitable, on points which after all are (as one of our equity judges is reported to have said on hearing that a judgment of his had been reversed by the Lord Chancellor) "only a difference of opinion between two gentlemen." The one point that I have mentioned is of a different kind, as I think you will admit it to be free from doubt, now that your attention is called to it.

M. I. B.

[With regard to the Trustees and Mortgagees Act, we fully agree with our learned correspondent, "M. I. B.," that it is in many places expressed in such ambiguous terms that its construction may well create a difference of opinion "between two gentlemen."

We feel indebted to him for pointing out the construction which he conceives ought to be placed upon the exception contained in the 34th section. It affords a striking illustration of the loose manner in which the act is drawn, inasmuch as the words "(except as hereinbefore provided)," if they mean anything—if they are not to be considered as mere surplusage—embrace all, if any, of the previous sections of the act; for they all, by implication, if not in express terms, apply to persons becoming trustees and mortgagees before as well as after the passing of the act.—Ed.]

THE JURIDICAL SOCIETY.—A meeting of this society was held on Monday, at its rooms, No. 4, St. Martin's-place, Trafalgar-square, Mr. W. M. Best in the chair; when Mr. Francis Morgan Nichols read a paper "On the rules which ought to govern the admission of extrinsic evidence in the interpretation of wills."

## Court Papers.

### EQUITY CAUSE LISTS, AFTER MICHAELMAS TERM, 1880.

\* \* The following abbreviations have been adopted to abridge the space the Cause Papers would otherwise have occupied:—A. Abated—Adj. Adjourned—A. T. After Term—Ap. Appeal—C. D. Cause Day—Cl. Claim—C. Costs—D. Demurrer—E. Exceptions—F. C. Further Consideration—F. D. Further Directions—M. Motion—M. D. Motion for Decree—P. C. Pro Confesso—Pl. Plea—Ptn. Petition—R. Rehearing—S. O. Stand Over—Sh. Short.

Before the LORD CHANCELLOR and the LORDS JUSTICES.

#### APPEALS.

Turner v. Turner (R., July 13) L. J.

Mills v. Barlow (S., July 18) L. J.

Mills v. Barlow (S., July 21) L. J.

Townsend v. Early (R., Aug. 16) Full Court, Dec. 5

Burch v. Bright } (W.,  
Bright v. Burch } Sept. 18)

Dec. 10

Thomas v. Griffiths (Part heard), (S., Nov. 7) Full Court, Dec. 5

Glover v. Croll (R., Nov. 21)

Burch v. Bright } (W.  
Bright v. Burch } Nov. 14)

Bright v. Legerton (R., Nov. 14)

Dilkes v. Broadmead (S., Nov. 15)

Liverpool Borough Bank v. Turner (W., Nov. 21)

Holroyd v. Marshall (S., Nov. 22)

Hunt v. Elmes (R., Nov. 22)

#### CAUSES.

Westmacott v. Robins (F C, Summons to vary certif.)

Goddard v. Parr (F C)

Subject to the above, the Lord Chancellor, sitting alone, will hear, as before, in the first instance, such Appeals from Vice-Chancellor Stuart and from Vice-Chancellor Wood as can be disposed of; and if possible, after so doing, Appeals from the Master of the Rolls.

Before the Right Hon. the MASTER OF THE ROLLS.

#### CAUSES, &c.

Gill v. Barrett (D)

Garrick v. Tayler (Cause)

Hughes v. Lewis (Cause)

Webb v. England (M D)

Badham v. Allen (M D)

Crooks v. Begg (M D)

Hale v. Bolton (M D)

Nugee v. Chapman (M D)

Cooper v. Hubback (M D)

Heath v. Nugent (M D)

Peto v. Hammond (Cause,

part heard) Dec. 5

Corry v. Londonderry & En-

niskillen Railway Co. (M D)

Dec. 5

Wolfram v. Upwards (Cause)

Dec. 5

Reay v. Rawlinson (F C, Sum-

mons to vary certif.) Dec. 5

Butterworth v. Winstanley (F

C) Dec. 5

Masters v. Bunn (Cause)

Norris v. Chambres (Cause)

Ley v. Clift (M D)

Holdernes v. Lamport (Cau.)

Dec. 6

Thomas v. Rawlings (M D)

Dec. 7

Hill v. Mount (M D)

Cook v. Wilson (M D)

Forshaw v. Welsby (M D)

Wilson v. Darton (Cause)

Drake v. Hilliard (Cause)

Phipps v. Child (M D)

Thomas v. Wilton (M D)

Brown v. Brown (M D)

Green v. Baker (M D)

Calverley v. De la Touche

(M D)

Cartwright v. Marsden (M D)

Pocock v. Anglo-Australian

and Universal Family Life

Assurance Co. (M D)

Harris v. Harris (M D)

White v. Steward (M D)

Fenwick v. Ecclesiastical Com-

missioners for England (M

D)

Littlewood v. Newton (M D)

Walmsley v. Gerrard (M D)

Pratt v. London and South-

western Railway Co. (M D)

Dominy v. London and South-

western Railway Co. (M D)

Barnes v. Bond (M D)

Perez v. Williams (M D)

Mills v. Raymond (M D)

Slegg v. Slegg (F C)

Pomfret v. Turner (F C)

Wilkinson v. Palmer (M D)

Bebb v. Davis (M D)

Simcox v. Law (M D)

Leak v. M'Dowall (M D)

Brian v. Wotman (M D)

Att.-Gen. v. Cope (F C)

Cuddon v. Poakes (M D)

Seager v. Toplis (F C)

Cole v. Willard (F C)

Slaney v. Bedggood (M D)

Gwynne v. Carmarthen and

Cardigan Railway Co. (M

D)

Cooper v. Macdonald (F C, M)

Parker v. Huggins (M D)

Aitkin v. Bolland (F C)

Palk v. Smith (F C)

Brook v. Aldrick (M D)

Williams v. Allen (M D)

Att.-Gen. v. Penruddock the

younger (Cause)

Joseph v. Phillips (M D)	Ullathorne v. Graham (F C)	Berney v. Norfolk Railway Co. (Cause)	Wheeler v. Unsworth (M D)
North British Insurance Co. v. Hallett (M D)	Lea v. Lea (F C)	Burrell v. Bigge (M D)	Batchelor v. Ivesey (F C)
Baker v. Mackin (M D)	In re Hubbard's Estate (F C, adj. from ch.)	Wheelwright v. Coe (F C)	Trery v. Clark (M D)
Batchelor v. Howard (M D)	Hubbard v. Wilkinson (Sums. to vary cert.)	Springett v. Dashwood (F C)	Jackson v. Burnett (F C)
Overton v. Crittall (M D)	Williams v. Jones (M D)	Tardrew v. Howell (F C)	Hawkins v. Pring (M D)
Shropshire Union Railway & Canal Co. v. Charlton (M D)	Stovold v. Stovold (M D)	Same v. Same (F C)	Tootal v. Dickenson (M D)
Holdsworth v. Goose (Sp. C.)	Stovold v. Pannell (M D)	Parry v. Howell (F C)	Prole v. Newman (M D)
Atkins v. Ward (F C)	Mogg v. Mogg (M D)	Crouch v. Layman (F C)	Hughes v. Hughes (M D)
Wright v. Reynolds (M D)	Larkins v. Watts (M D)	Baker v. Peck (Cause)	Candy v. Candy (M D)
Barrett v. Liddbetter (M D)	Cooper v. Cooper (Sp. C.)	Andrew v. Andrew (M D)	Keyworth v. Cooper (M D)
In re Baker's Estate (F C, adj. journe'd from chamb.)	Polley v. Polley (Cause)	Ruxton v. Richardson (M D)	Swift v. Cunningham (F C)
Baker v. Lovecroft (F C, adj. journe'd from chamb.)	Hamilton v. Mills (M D)	Dec. 23	Gould v. Taylor (F C)
Ward v. Pilcher (M D)	In re Scovell's Estate (F C, adj. journe'd from chamb.)	Morgan v. Higgins (F C)	Dicker v. Wooldridge (M D)
Blyth v. Blyth (F C, Sums. to vary certif. and Sums. to vary certif. in Blyth v. Hemming)	Hindley v. Scovell (chamb.)	Swift v. Parry (F C)	Barnett v. Barnett (M D)
Moberly v. Healey (Cause)	Paul v. Paul (M D)	Elwin v. East (M D)	Berry v. Berry (M D)
Att.-Gen. v. Lord Dynevor (F C)	Whiteway v. Watts (M D)	Gibbs v. Savory (F C)	Bumford v. King (F C)
Phillips v. Phillips (Cause)	Patterson v. Rehe (F C)	Baylie v. Baylie (M D)	Brown v. Willmott (M D)
Snell v. Toulman (M D)	Powell v. Fitzgibbon (F C)	Eades v. Harris (Cause, re-hearing)	Waters v. Savio (M D)
Nelson v. Exley (M D)	Payne v. Calator (Cause)	Same v. Same (F C)	Ring v. Jarman (F C)
Rhymney Railway Co. v. Taff Vale Railway Co. (M D)	Coke v. Swaby (M D)	Eades v. Rolinson (F C)	Cheshire v. Whitgreave (M D)
Michaux v. Goodman (Cause)	Handley v. Farmer (F C, Sums. to vary certif.)	In re Lewis's Estate (F C)	Pipes v. Pipes (Cause)
Racott v. Lister (M D)	Woolfall v. Kent (Cause)	Lewis v. Lewis (F C)	Hewet v. Jarvis (Cause)
	Todd v. Patrick (M D)	In re Lewis (F C)	Waters v. Grose (Cause)
	White v. White (M D)	Lewis v. Jeremiah (F C, chamb.)	Smith v. Hanbury (M D)
	Phillips v. Dawn (M D)	Barrow v. Hyslop (M D)	Thomas v. Griffiths (F C, M)
	White v. Terrewatt (Cause)	Graham v. Graham (M D)	Heath v. Greenhill (M D)
	Stansfeld v. Batsford (Cause)	Clegg v. Clegg (Cause)	Knowles v. Greenhill (M D)
	Hudson v. Temple (M D)	Clayton v. Clarke (F C, Sum.)	Turnbull v. Sweeting (M D)
		Forrest v. Leach (M D)	Bowles v. Rump (M D)
		Lammin v. Bennett (M D)	Jones v. Parry (F C, Pta)
		Matson v. Dennis (M D)	Jones v. Ben-nion (F C, Bolden)
		Matson v. A. Dennis (M D)	Whitney v. Dixon (M D)
		Edwards v. Young (M D)	Stamford, Spalding, & Boston Banking Co. v. Ball (M D)
		Taylor v. Jones (F C)	Wells v. Polley (F C)
		Mills v. Alleyne (M D)	Deere v. Notley (F C)
		Ratcliffe v. Ratcliffe (M D)	Burman v. Tarleton (M D)

*Before the Vice-Chancellor Sir RICHARD T. KINDERSLEY.*

CAUSES, &c.

Pickles v. Pickles (Cause, part heard)	Cadle v. Woollett (M D)
Bedwell v. Prudence (M D)	Harrison v. Cresswell (Cause)
Charman v. White (M D)	Vickers v. Williamson (M D)
Fleck v. Wilson (Cause)	Berkeley v. Whitley (Cause)
Henderson v. Dodds (M D)	Hicks v. Hicks (F C)
Eastland v. Carline (M D)	Haynes v. Haynes (F C)
New Brunswick and Canada Railway and Land Co. (Limited) v. Muggeridge (Ca., M) Dec. 5	Ogilvie v. Smith (F C)
Hughes v. Chester and Holyhead Railway Co. (M D)	Ogilvie v. Smith (F C)
Visct. Wellesley (now Earl of Mornington) v. Earl of Mornington (F C, 2 Sums. to vary certif., Ptn)	Hobman v. Gadeeden (Cause)
Countess of Mornington v. Visct. Wellesley (now Earl of Mornington) (F C, 2 Sums. to vary certif., Ptn)	Wass v. Pettinger (M D)
Clark v. Eldridge (M D)	Day v. Hair (M D)
Reynolds v. Wheelhouse (Ca.)	Drennan v. Andrew (M D)
Davies v. Marshall (M D) Dec. 11	Whitehead v. Bennett (F C)
Powell v. Trotter (M D)	Porterlington v. Damer (F C)
Burgess v. Castley (Cause)	Berkeley v. Whitley (Cause)
Ellison v. Thomas (M D)	Hull v. Heygate (M D)
Beachcroft v. Lewes (Sp. C.)	Woodroffe v. Barry (M D)
	Smithson v. Pennell (M D)
	Lows v. Kekwick (M D)
	Tibbitts v. Smith (M D)
	Thackthwaite v. Hopkinson (M D)
	Tinkler v. Heels (F C)
	Wason v. Kempeon (Cause)
	Drakeford v. Stubbs (F C, Sums. to vary certif.)
	Prance v. Ernest (Cause)
	Shepherd v. Redpath (M D)
	Gregory v. Marshall (F C)

*Before the Vice-Chancellor Sir JOHN STUART.*

CAUSES, &c.

Towie v. National Guardian Assurance Society (M D)	M'Master v. Williams (M D)
Collins v. Higgins (M D)	Att.-Gen. v. Bond (M D)
Secretary of State in Council of India v. Kelson (M D)	Barlow v. Jones (Cause)
Macnaghten v. Smith (M D)	Johnson v. Smart (F C) Dec. 15
Draper v. Manchester, Sheffield, & Lincolnshire Railway Co. (M D)	Booth v. Colton (F C, Sums. to vary certif., Ptn)
Spackman v. Lattimore (Ca., part heard) Dec. 5	Webb v. Holton (M D)
Lander v. West (M D) Dec. 9	Garland v. Kierman (F C, Sums.)
	Holloway v. Sturgis (M D)
	Colston v. Colston (M D)

*Before the Vice-Chancellor Sir W. P. WOOD.*

CAUSES, &c.

Morgan v. Redman (M D, part heard)	Gall v. Dearn (M D)
Wilson v. Whateley (Special case, part heard)	Lambert v. Rawlings (M D)
Jerdeln v. Bright (D)	Jones v. Dilke (F C)
Norris v. Jackson (3 Ds)	Chittenden v. Lawford (F C)
Londonderry v. Baker (D)	Poore v. Wright (F C)
Whitmore v. Turquand (M D)	Isaac v. Stuart (Cause)
Jeffryes v. Drysdale (M D)	Garrett v. Kennedy (F C)
Turner v. Guardians of the Poor of West Bromwich Union (M D)	Norris v. Sheppard (M D)
Senhouse v. Gaitskill (F C)	Meredith v. Palfrey (F C)
Godfrey v. Mountain (F C)	Marsh v. Att.-Gen. (F C)
Gardiner v. Stevens (M D)	In re Davis (F C, adj. from ch.)
Isaac v. Stuart (Cause)	Butler v. Withers (F C)
Harrison v. Barton (M D) Dec. 5	Snow v. Wilkes (F C)
Clayton v. Cowland (M D)	Clack v. Carlow (F C)
Prince Alexander Torlonia v. Wiesbaden Railway Co. (M D)	Joel v. Mills (F C)
London, Brighton, and South Coast Railway Co. v. Turnley (M D)	Johnston v. Wensley (Cause)
Larner v. Eade (M D) Sh	Claydon v. Finch (F C)
Ford v. Tynte (Cause)	Gaylard v. Hackwell (Cause)
Gardner v. Lashbrooke (M D)	Irwin v. Irwin (Cause)
Shaw v. Shaw (Cause)	Lee v. Dawson (M D)
Broadbent v. Barlow (M D)	Turner v. Mullineaux (F C)
Consolidated Investment and Assurance Co. v. Garner (Cause)	Turner v. Turner
Manning v. Petherick (F C)	Perkins v. Mellor (F C)
Thackeray v. Parker (M D)	Scott v. Freeman (M D)
Crickmore v. Crickmore (M D)	Bond v. Barnes (M D)
De Combe v. De Combe (F C)	Price v. Patent Fuel Co. (Limited) (M D)
	Baaham v. Rose (Cause)
	Cotton v. Cripps (M D)
	Sidebotham v. Horsfield (M D) Dec. 14
	Lumby v. Lumby (M D)
	Higgs v. Budworth (M D)
	Barnard v. Beacon (M D)
	Maddison v. Chapman (M D)
	Newby v. Harrison (M D)
	Johnson v. Beaver (M D)
	Tuckley v. Thompson (F C)

Seymour v. Harris (Cause)  
 Pilcher v. Randall (F C, ad-  
 journed Summons)  
 Drake v. Row (M D)  
 Lancashire Insurance Co. v.  
 Ewart (Cause)  
 Heming v. Lefschild (F C)  
 Baston v. Heath (M D)  
 Jowett v. Elliott (M D)  
 Knight v. Brown (Cause)  
 Coleman v. Butcher (M D)  
 Napper v. Napper (Cause)  
 Hutchinson v. Smith (Cause)  
 Hope v. Fox (M D)  
 Hargreaves v. Wildman (Ca.)  
 Bettney v. Bettney (M D)  
 Fenton v. Hankins (M D)  
 Monypenny v. Monypenny  
 (M D)

Selby v. Pomfret (M D)  
 Deane v. Foster (M D)  
 Parkes v. Mills (M D)  
 Loftus v. Gowing (M D)  
 Dawkins v. Mortan (M D)  
 Chambers v. Vernon (M D)  
 Fleming v. Rodocanachi (M  
 D)  
 Frend v. Dennett (M D)  
 Clarke v. Wardroper (M D)  
 Horn v. Anglo-Australian  
 and Universal Family  
 Life Assurance Co. } (Cause)  
 Lister v. Same  
 Acraman v. Corbett (Cause)  
 Sharp v. Emmett (M D)  
 Clapham v. Stevens (M D)  
 Hawkins v. Hawkins (M D).

tenham, Gloucestershire, plumber.—*Edgar Robert Ramage*,  
 Bond-court, Walbrook, and Upper Thames-street, London,  
 and Gloucester-cottage, Peckham, Surrey, wine cooper.—*S.*  
*Eason*, Liverpool, coal merchant.

#### SCOTCH SEQUESTRATIONS.

*Jas. Maxton Morrison*, Glasgow, confectioner.—*Duncan*  
*MacKenzie*, Edinburgh, machinist.—*James Wyatt*, Edin-  
 burgh, solicitor.—*George Lumaden Perry*, Edinburgh, mer-  
 chant.—*James Rochaid*, Inverleith, Mid-Lothian, deceased.  
 —*James Howie*, Maryfield, by Dundee, yarn miller.—*Alex.*  
*Allison*, Glasgow, baker.

#### TUESDAY, Dec. 4.

##### BANKRUPTS.

EDWARD WASON FREESTONE, Clarke's-place, High-  
 street, Islington, Middlesex, milliner, Dec. 18 at 11, and  
 Jan. 17 at 12, London: Off. Ass. Johnson; Sol. Mardon,  
 99, Newgate-street.—Pet. f. Dec. 3.  
 WILLIAM COLE the younger, Mark-lane, City, iron mer-  
 chant, Dec. 18 at 12, and Jan. 17 at 2, London: Off. Ass.  
 Bell; Sol. Brewer, 3, Philpot-lane.—Pet. f. Dec. 4.  
 GEORGE JAMES M'LENNAN and JOHN WILLIAM  
 BIRD, Osaburgh-street, Regent's-park, Middlesex,  
 builders, Dec. 14 and Jan. 15 at half-past 11, London: Off.  
 Ass. Stansfeld; Sols. J. & J. H. Linklater & Co., 7, Wal-  
 brook, London.—Pet. f. Dec. 4.  
 WILLIAM HARRIS the younger, late of Ilford, Essex,  
 miller, (now a prisoner for debt in the Debtors Prison for  
 London and Middlesex), Dec. 14 at 1, and Jan. 9 at half-  
 past 12, London: Off. Ass. Stansfeld; Sol. Treherne, 17,  
 Gresham-street, London.—Pet. f. Nov. 4.  
 JOHN BROOK, Birmingham, electro plater, Dec. 17 and  
 Jan. 21 at 11, Birmingham: Off. Ass. Whitmore; Sol.  
 Smith, Birmingham.—Pet. d. Nov. 30.  
 SAMUEL HOPKINS, Bewdley, Worcestershire, horn worker,  
 Dec. 14 and Jan. 18 at 11, Birmingham: Off. Ass. Kin-  
 near; Sols. James & Knight, Birmingham; Warmington  
 & Stokes, Dudley.—Pet. d. Nov. 30.  
 HENRY PARRIS, Bridport, Dorsetshire, machine maker,  
 Dec. 19 and Jan. 23 at 12, Exeter: Off. Ass. Hirtzel; Sols.  
 Flight & Loggin, Bridport; Turner & Hirtzel, Exeter.—  
 Pet. f. Nov. 23.  
 RICHARD BAKER, Barnstaple, Devonshire, general smith,  
 Dec. 19 and Jan. 23 at 13, Exeter: Off. Ass. Hirtzel; Sol.  
 Fryer, Exeter.—Pet. f. Dec. 1.  
 BENJAMIN HINCHLIFFE, Littlemoor, Pudsey, Calverley,  
 Yorkshire, cloth manufacturer, Dec. 20 and Jan. 18 at 11,  
 Leeds: Off. Ass. Young; Sols. Dunning & Kay, Leeds.—  
 Pet. d. and f. Nov. 27.  
 JOHN KIPPAX, East Retford, Nottinghamshire, watch-  
 maker, Dec. 15 and Jan. 19 at 10, Sheffield: Off. Ass.  
 Brewin; Sols. Burnaby & Denman, East Retford; Bond  
 & Barwick, Leeds.—Pet. d. Nov. 19; f. Nov. 20.  
 DAVID MURDOCH, Liverpool, grocer, Dec. 17 and Jan.  
 10 at 11, Liverpool: Off. Ass. Bird; Sol. Yates, jun., Li-  
 verpool.—Pet. f. Nov. 30.  
 CHARLES EATON the younger, Manchester, leather factor,  
 Dec. 19 and Jan. 18 at 12, Manchester: Off. Ass. Pott;  
 Sol. Taylor, Manchester.—Pet. f. Oct. 19.

#### MEETINGS.

*Joseph Eccles*, *Edward Eccles*, and *Alexander Eccles*,  
 Liverpool, cotton brokers, Dec. 14 at 11, Liverpool, pr. d.—  
*John Ashdon*, Ponsford-terrace, Maldon-road, Kentish-  
 town, Middlesex, draper, Dec. 18 at 11, London, and ac.—  
*William Elliott*, Church-street, Chelsea, and Oxford-terrace,  
 King's-road, Chelsea, Middlesex, builder, Dec. 18 at 12,  
 London, and ac.—*Joseph Russell*, Larkhall-lane, Clapham,  
 Surrey, jobmaster, Dec. 18 at half-past 12, London, and ac.—  
*Thomas Griffin*, Hampton-terrace, Hampstead-road, Mid-  
 dlesex, bookseller, Dec. 18 at 1, London, and ac.—*Thomas*  
*George Wicks*, Beckford-row, Waiworth, Surrey, linendraper,  
 Dec. 20 at half-past 1, London, and ac.—*John Skinner*,  
 Northampton, shoe manufacturer, Dec. 20 at half-past 12,  
 London, and ac.—*John Hullah*, St. Martin's Hall, Long-  
 acre, and Langham-street, Portland-place, Middlesex, book-  
 seller, Dec. 21 at 1, London, and ac.—*Charles F. Lear*,  
 Fishponds, Gloucestershire, baker, Dec. 20 at 11, Bristol,  
 and ac.—*J. Walker* and *W. Walker*, Birkenhead, Cheshire,  
 oiners, Dec. 14 at 11, Liverpool, and ac.; Dec. 28 at 11, div.—  
*John Wilkinson*, Brymbo, Denbighshire, ironmaster, Dec. 14  
 at 11, Liverpool, and ac.; Dec. 28 at 11, div.—*Andrew*  
*Gibson*, Liverpool, factor, Dec. 14 at 11, Liverpool, and ac.—  
*James Kirk* and *George Rayner*, Manchester, silk manu-  
 facturers, Dec. 18 at 12, Manchester, and ac. joint est., and  
 and ac. sep. est. of *G. Rayner*.—*James Credland*, Hulme,  
 Lancashire, builder, Dec. 20 at 12, Manchester, and ac.;  
 Dec. 27 at 12, div.—*George Freeman* and *Henry Bentley*  
*Wrixon*, Blenheim-street, Oxford-street, Middlesex, lead  
 merchants, Dec. 27 at half-past 11, London, div.—*William*  
*Haggood*, Southampton, ironmonger, Dec. 28 at 11, London,  
 div.—*William Fenn*, New Broad-street, City, underwriter,  
 Dec. 28 at half-past 11, London, div.—*John Pearce*, Holborn-  
 hill, Middlesex, woollen draper, Dec. 27 at 12, London, div.—  
*Samuel Baxter*, Minories, City, and Glasshouse-street,  
 Upper East Smithfield, Middlesex, ship's smith, Dec. 27 at  
 11, London, div.—*William Score*, Hatcham, Surrey, soap  
 manufacturer, Dec. 27 at 12, London, div.—*William Dray*,  
 Farnham, Kent, farmer, Dec. 27 at 12, London, div.—  
*William Nicholls*, Leicester, manufacturer of blue, Dec. 27  
 at 11, Nottingham, and ac. and div.—*William Hamilton*  
*Rutherford*, Nottingham, grocer, Dec. 27 at 11, Nottingham,  
 and ac. and div.—*Daniel Buchanan* and *Robert Benn*,  
 Liverpool, merchants, Dec. 28 at 11, Liverpool, div.

#### CERTIFICATES.

To be allowed, unless Cause be shewn to the contrary on or  
 before the Day of Meeting.

*Egbert Lambley*, Charles-street, Soho-square, Middlesex,  
 tailor, Dec. 28 at 11, London.—*William Score*, Hatcham,  
 Surrey, soap manufacturer, Dec. 27 at 12, London.—*Richard*  
*Steward*, Great Yarmouth, Norfolk, carpenter, Dec. 27 at 11,  
 London.—*Thomas Biscoe*, Great James-street, Lisson-grove,  
 Marylebone, Middlesex, leather-seller, Dec. 27 at 12, London.  
 —*Robert Edward Martin*, Brighton, Sussex, surgeon, Dec.  
 27 at 1, London.—*James Edgcome Richards*, Portsmouth,  
 Devonshire, chemist, Jan. 2 at 12, Exeter.—*Walter Law-  
 rance*, Budock, Cornwall, cowkeeper, Jan. 2 at 12, Exeter.—  
*James M'Colm*, Manchester, common brewer, Dec. 27 at 12,  
 Manchester.—*Joseph Tongue*, Rugby, Warwick, bootmaker,  
 Jan. 25 at 11, Birmingham.—*Joseph Hulford*, Birmingham,  
 licensed victualler, Jan. 25 at 11, Birmingham.—*H. Grant*,  
 Cardiff, Glamorganshire, ship chandler, Dec. 21 at 11, Bristol.

To be granted, unless an Appeal be duly entered.

*Simon Sander*, St. Mary Axe, City, merchant.—*George*  
*Erlam*, Upper-street, Islington, Middlesex, woollen draper.  
 —*Robert Stone*, Cerne Abbas, Dorsetshire, innkeeper.—  
*Richard Horrocks*, Liverpool, baker.—*John Heath Barber*  
 and *William Henry Ellis*, Liverpool, iron merchants.—  
*George Craven*, Liverpool, merchant.—*William Molynaux*  
*Townson*, Liverpool, licensed victualler.—*Frederic Garfit*,  
 Brigg and Scawby, Lincolnshire, scrivener.—*Philip Wams-  
 ley*, *Thomas Hammersley*, and *Frederick Hammersley*, Leek,  
 Staffordshire, silk manufacturers.

#### PARTNERSHIP DISSOLVED.

*Jackson Townend*, *Joseph James Ridley*, and *William*  
*Jackson*, jun., Liverpool, attorneys and solicitors, so far as  
 regards *Joseph James Ridley*.

#### SCOTCH SEQUESTRATIONS.

*Robert Thompson*, Glasgow, commission merchant.—*John*  
*Hallday*, Middlebie, Dumfriesshire, wool carder.—*Robert*  
*Hamilton*, Glasgow, tea merchant.

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HEAD OFFICE—7, WATERLOO-PLACE, PALM-MALL, LONDON, S.W. CITY BRANCH—63, MOORGATE-STREET, E.C.  
 (Established 1838).

The Business of the Medical Invalid and General Life Assurance Society having been amalgamated with the Albert Life Assurance Company, the united Businesses will henceforth be carried on under the above title.

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## GAZETTES.—FRIDAY, Dec. 7.

## BANKRUPTS.

**WILLIAM FROSTICK** the younger, Glengall-road, Cubitt's-town, Poplar, and **ABRAHAM BOYS**, William-st. East, Poplar, Middlesex, builders, (trading under the firm of Frostick & Boys), Dec. 18 at half-past 1, and Jan. 17 at 11, London: Off. Ass. Johnson; Sol. Turner, 8, Mount-street, Whitechapel.—Pet. f. Dec. 6.

**JOHN ALEXANDER POUTEAU**, Pond-street, Hampstead, late of Southampton-street, Strand, Middlesex, printer, Dec. 18 at half-past 11, and Jan. 17 at 12, London: Off. Ass. Stansfeld; Sols. Lawrence & Co., 14, Old Jewry-chambers, London.—Pet. f. Dec. 5.

**JAMES BROADBRIDGE**, Arundel, Sussex, grocer, Dec. 19 at half-past 1, and Jan. 17 at half-past 11, London: Off. Ass. Graham; Sols. B. & G. Holmes, Arundel; Lawrence & Co., 14, Old Jewry-chambers, London.—Pet. f. Dec. 5.

**MOSES DAVID STRELITZ**, Newgate-street, City, merchant, Dec. 19 at 2, and Jan. 17 at half-past 12, London: Off. Ass. Stansfeld; Sols. George & Downing, 5, Sise-lane, London.—Pet. f. Dec. 5.

**GUSTAVE JOHN PARRY**, Brabant-court, Philpot-lane, City, merchant, Dec. 17 and Jan. 18 at 11, London: Off. Ass. Pennell; Sols. Fraser & May, 78, Dean-street, Soho, London.—Pet. f. Nov. 29.

**THOMAS SEPTIMUS PATTISON** and **FREDERICK MILES**, Lawrence Pountney-hill, City, wholesale stationers, (trading under the style or firm of Pattison & Miles), Dec. 17 at 1, and Jan. 22 at 12, London: Off. Ass. Edwards; Sols. Lawrence & Co., 19, Broad-street, Cheap-side, London.—Pet. f. Dec. 7.

**GIBBS HOWES MURRELL**, Surlingham, Norfolk, brick-maker, Dec. 17 at 1, and Jan. 20 at 12, London: Off. Ass. Edwards; Sols. Taylor & Son, Norwich; Blake, 4, Sergeants'-Inn, Temple, London.—Pet. f. Nov. 30.

**GEORGE LONDGRIDGE WILLIAMS**, Florence-street, Islington, Middlesex, builder, Dec. 18 at half-past 2, and Jan. 18 at 11, London: Off. Ass. Edwards; Sol. Chidley, 10, Basinghall-street, London.—Pet. f. Dec. 4.

**HENRY WALKER**, Leicester, hatter, (trading under the style or firm of Henry Walker & Co.), Dec. 20 and Jan. 8 at 11, Birmingham: Off. Ass. Harris; Sols. James & Knight, Birmingham.—Pet. d. Nov. 23.

**FRANCIS EDWARD SHIPLEY** the younger, Giltbrook, Nottinghamshire, brickmaker, and **FRANCIS EDWARD SHIPLEY** the elder, Nottingham, tanner, Dec. 20 and Jan. 24 at 11, Nottingham: Off. Ass. Harris; Sols. Freeth & Co., and Cope, Nottingham.—Pets. d. Sept. 27 and Dec. 3.

**DAVID WATKINS**, Backway Farm, Shebbear, Devonshire, cattle dealer, Dec. 20 and Jan. 23 at 12, Exeter: Off. Ass. Hirtzel; Sol. Fulford, North Tawton, Devonshire.—Pet. f. Nov. 1.

**JOSEPH AMBLER**, Bradford, Yorkshire, worsted manufacturer, Dec. 20 and Jan. 18 at 11, Leeds: Off. Ass. Young; Sols. Ingram & Baines, Halifax; Bond & Barwick, Leeds.—Pet. d. and f. Nov. 27.

**WILLIAM McLEOD**, Kingston-upon-Hull, joiner, Dec. 19 and Jan. 16 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sols. Wilson, and Chester, Hull.—Pet. d. Dec. 3.

**JOHN WARD CLAPPISON**, Kingston-upon-Hull, jeweller, Dec. 19 and Jan. 16 at 12, Kingston-upon-Hull: Off. Ass. Carrick; Sols. Bartlett & Son, Birmingham; Preston, Hull; Bond & Barwick, Leeds.—Pet. d. Nov. 23.

**THOMAS BEECH**, Ryerton, near Liverpool, joiner, Dec. 17 and Jan. 10 at 11, Liverpool: Off. Ass. Morgan; Sol. Toulmin, Liverpool.—Pet. f. Dec. 4.

## MEETINGS.

**J. Yaxley**, Providence-yard, Vauxhall-bridge-road, Westminster, Middlesex, farrier, Jan. 4 at 11, London, last ex.—**Thomas Spicer**, Little Britain, City, oilman, Dec. 19 at half-past 2, London, last ex.; Dec. 29 at 12, div.—**James Josiah Stephenson**, Crawford-street, Bryanstone-square, St. Marylebone, Middlesex, cabinet maker, Dec. 19 at 1, London, last ex.—**John Dales**, Old Broad-street, City, and Dewsbury, Yorkshire, merchant, Dec. 18 at 12, London, last ex.—**Geo. Royce**, Sutton, near St. Helens, Lancashire, flint-glass manu-

facturer, Dec. 17 at 12, Liverpool, last ex.—**John Keen**, Leadenhall-street, City, merchant, Dec. 28 at half-past 1, London, aud. ac.—**Thomas Manning**, Aldershot, Southampton, hotel keeper, Dec. 19 at 1, London, aud. ac.—**Edmond J. Burn** the younger, Brighton, Sussex, stationer, Dec. 19 at 12, London, aud. ac.; Dec. 28 at 12, div.—**Frederick Crockford**, St. James's-st., Middlesex, eating-house keeper, Dec. 20 at 1, London, aud. ac.—**Josiah D. Wingrave** and **Thomas Wm. Wood**, St. Albans, Hertfordshire, and Laton, Bedfordshire, straw-plait manufacturers, Dec. 19 at half-past 11, London, aud. ac.—**Edward Morris Watson**, Tottenham-court-road, Middlesex, linendraper, Dec. 19 at 11, London, aud. ac.—**John Thomson**, High-street, Kensington, and Brydges-street, Covent-garden, Middlesex, licensed victualler, Dec. 20 at 1, London, aud. ac.—**Robert Watson** and **Charles W. Watson**, Kettering, Northamptonshire, curriers, Dec. 19 at 12, London, aud. ac.; Dec. 28 at half-past 11, div.—**Jos. Chadwick**, Willington Wharf, Augustus-st., Regent's-park, Middlesex, stone merchant, Dec. 18 at 12, London, aud. ac.; Dec. 28 at 1, div.—**John Hart**, Crown-street, Finsbury, Middlesex, boot manufacturer, Dec. 18 at 12, London, aud. ac.—**James Pitcher**, Hampstead-road, Middlesex, leather seller, Dec. 19 at half-past 11, London, aud. ac.; Dec. 28 at 11, div.—**Demetrio Antonio di Demetrio**, New Broad-street, City, merchant, Dec. 19 at 11, London, aud. ac.—**Nathan Benjamin** and **Edwin Dipple**, New-cut, Lambeth, Surrey, gas fitters, Dec. 18 at half-past 12, London, aud. ac.—**James D. Chapman**, Aldermanbury, City, and High-street, Whitechapel, Middlesex, linendraper, Dec. 18 at half-past 11, London, aud. ac.—**David Tearle**, Houghton Regis and Laton, Bedfordshire, straw-plait dealer, Dec. 18 at 12, London, aud. ac.; Dec. 24 at 1, div.—**Wm. G. Gibson**, Godalming, Surrey, tanner, Dec. 18 at half-past 11, London, aud. ac.—**William Dray**, Farningham, Kent, farmer, Dec. 18 at half-past 11, London, aud. ac.—**Wm. O. Pearson**, Milton-road, Gravesend, Kent, silk agent, Dec. 18 at 11, London, aud. ac.—**William Score**, Hatcham, Surrey, soap manufacturer, Dec. 18 at 11, London, aud. ac.—**James H. Smith**, Wyld's-rents, Bermondsey, Surrey, tanner, Dec. 18 at 11, London, aud. ac.—**John H. Raw**, Ware, Hertfordshire, clothier, Dec. 17 at 11, London, aud. ac.—**Peter Doyle**, Wapping-wall, Middlesex, sail maker, Dec. 17 at 11, London, aud. ac.—**Henry Turner**, Rotherhithe-wall, Rotherhithe, Surrey, grocer, Dec. 17 at half-past 11, London, aud. ac.—**George T. Marks**, Arbour-place, Fairfields, Stepney, Middlesex, ropemaker, Dec. 17 at half-past 11, London, aud. ac.—**James Ford** and **Edward Young**, North Portman-mews, Portman-square, and York-street, St. Marylebone, Middlesex, cabinet manufacturers, Dec. 17 at 12, London, aud. ac.—**Thomas Pitcher**, Raven-row and South-street, Whitechapel-road, Middlesex, packing-case maker, Dec. 17 at 12, London, aud. ac.—**Anthony Harris**, Sevenoaks, Kent, licensed victualler, Dec. 19 at 11, London, aud. ac.—**W. Penfold**, Market-terrace, Caledonian-road, Middlesex, gasfitter, Dec. 19 at half-past 11, London, aud. ac.—**George E. Arnaby**, Earl's Barton, Northamptonshire, shoe manufacturer, Dec. 19 at half-past 11, London, aud. ac.—**S. Lindo**, Westbourne-grove, Bayswater, Middlesex, wine merchant, Dec. 19 at 11, London, aud. ac.—**George Canning Moulton**, Gresham-street, City, dealer in India rubber, Dec. 19 at 12, London, aud. ac.—**George Huntington**, Great Suffolk-street, Borough, Surrey, shoemaker, Dec. 19 at 12, London, aud. ac.—**Thomas Brookes**, Birmingham, innkeeper, Dec. 17 at 11, Birmingham, aud. ac.—**Frederick Charles Perry**, Roughwood and Rycroft Collieries, near Walsall, and Halffields Furnace, near Bilston, Staffordshire, and Stockport, Cheshire, ironmaster, Dec. 17 at 11, Birmingham, aud. ac.; Jan. 7 at 11, div.—**John Clarke**, George Oldfield, and **Robert Oldfield**, Lichfield, millers, Dec. 17 at 11, Birmingham, aud. ac.—**Wm. Higgins Merrick**, Halesowen, Worcestershire, innkeeper, Dec. 17 at 11, Birmingham, aud. ac.—**William Jones**, Nottingham, grocer, Dec. 20 at 11, Nottingham, aud. ac.—**John Roberts**, Taunton, Somersetshire, tailor, Dec. 20 at 12, Exeter, aud. ac.; Jan. 2 at 12, div.—**William Gilyard** and **Samuel Brown**, Bradford, Yorkshire, machine woolcombers, Dec. 20 at 11, Leeds, aud. ac. joint and sep. ests.—**Thomas Clark**, Bradford, Yorkshire, paper merchant, Dec. 20 at 11, Leeds, aud. ac.—**Emil Henry Leibius**, Bush-lane, Cannon-street, City, merchant, Jan. 3 at 12, London, div.—**John Hullah**, St. Martin's-hall, Long-



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## THE JURIST.

LONDON, DECEMBER 15, 1860.

As a general rule, independent of legislative enactments, the personal estate of a deceased person was the primary fund for the payment of the mortgage debts which he had himself contracted, or, if contracted by others, which he had subsequently adopted; and his heir-at-law or devisee were entitled to demand that the estate which they took in such characters should be exonerated out of the general personal estate of the deceased, unless, in the case of a devisee, the testator, either by express words or manifest intent, had exempted the personal estate from its primary liability.

Where, however, the mortgage debt was not the personal debt of the devisor or intestate, but of some previous owner of the estate, and the devisor or intestate had done no act by which he had adopted the mortgage debt as his own, the mortgaged estate was in all cases the primary fund for its payment, and the heir or devisee took the estate cum onere, and the mortgagee only could have resorted to the personal estate as an auxiliary and collateral fund for payment.

Much litigation arose in determining, in the absence of express intention on the part of testators, what should sufficiently manifest this intent to exempt the personal estate from its primary liability to satisfy the testator's own or adopted mortgage debt. There was, however,

a considerable leaning in favour of the heir or devisee, not only in the formation of the rule, but in the construction put upon it; for instance, a devise, "subject to" a mortgage, was not considered to be sufficient to shew the testator's intention to exonerate the personal estate.

Whatever may be the opinion with regard to the policy of these rules, so favourable to those becoming entitled to real estate, it must be confessed that they often operated with great harshness towards widows or younger children who became possessed of the personalty, or a share of it.

This injustice at length induced the Legislature to interfere; and by the 17 & 18 Vict. c. 113, (commonly called Mr. Locke King's Act), it is enacted, "that when any person shall, after the 31st December, 1854, die seized of or entitled to any estate or interest in any land or other hereditaments which shall, at the time of his death, be charged with the payment of any sum or sums of money by way of mortgage, and such person shall not, by his will, deed, or other document, have signified any contrary or other intention, the heir or devisee to whom such land or hereditaments shall descend or be devised shall not be entitled to have the mortgage debt discharged or satisfied out of the personal estate, or any other real estate of such person, but the land or hereditaments so charged shall, as between the different persons claiming through or under the deceased person, be primarily liable to the payment of all mortgage

debts with which the same shall be charged, every part thereof, according to its value, bearing a proportionate part of the mortgage debts charged on the whole thereof."

As might have been expected, the question naturally arises, in the application of the new rule, as to the primary liability of mortgaged land to bear its own burthen, laid down by the act, what will be considered as a sufficient signification, on the part of testators, of "*any contrary or other intention?*" Upon this there has been already, and doubtless there will be on future occasions, a conflict of judicial opinion.

In the recent case of *Woolstencroft v. Woolstencroft* (6 Jur., N. S., part 1, p. 866) the testator, by his will, dated the 27th June, 1855, directed as follows:—"All my debts, funeral and testamentary expenses, shall be paid by my executors out of my estate." The testator then gave all his personal estate, except leaseholds, to his wife absolutely. He then devised real estate, which was subject to a mortgage debt, to trustees, in trust for his wife for life, and after her death for her children; and he appointed the trustees and his wife executors and executrix. Sir J. Stuart, V. C., held that the mortgage debt was primarily payable out of the personal estate. His Honor thought that if, as in the case under consideration, a testator clearly directed that his executors should pay *all* his debts, he surely signified an intention that the devisee of the mortgaged estate was not to pay the mortgage debt; that it might be objected to this view, that there was no express mention of the mortgage debt; but the testator expressly directed that *all* his debts should be paid by his executors, thus manifesting that he intended they should be paid in a course of administration different from that pointed out by the act.

Soon after the decision of Sir J. Stuart, V. C., in *Woolstencroft v. Woolstencroft*, another case upon the construction of Mr. Locke King's Act (*Pembroke v. Friend*, 1 Johns. & H. 132) was decided by Sir W. P. Wood, V. C. In the latter case there was a direction in a will, that "all just debts be paid as soon as may be," followed by a devise in fee of a freehold house, which was subject to an equitable mortgage by deposit of title deeds, with a memorandum; and his Honor held that the testator had not shewn such an expression of contrary intention as to bring the case within the saving clause of the statute. His Honor observed that the testator did not say that the debts were to be paid out of his *personal estate*, or by his *executors*. Had he used the words "by my executors," there would have been something on which to build the conclusion that he meant to express an intention that the general statutory rule should not apply.

The case of *Woolstencroft v. Woolstencroft* having lately come before the Lord Chancellor on appeal, (6 Jur., N. S., part 1, p. 1170), his Lordship reversed the decision of the Vice-Chancellor, being of opinion that the testator had not sufficiently signified, under stat. 17 & 18 Vict. c. 113, any contrary or other intention that the devisee should not be entitled to have the mortgage debt discharged out of his personal estate. "The mortgaged land," said his Lordship, "being now made primarily liable, a liberty was still given to the testator to make an exception to the new rule, and still

to throw the charge upon his personal estate. But this was to be done by his clearly signifying this intention. In my opinion he can only signify this intention by express words, or by the language employed clearly indicating that he meant the devisee or heir to take the land free of this charge, and to throw the charge upon his personal estate. . . My real opinion is, that in this case the testator had not in his mind the charge upon the mortgaged land, as to whether it should be paid by the devisee or out of the personal estate, when he directed that all his debts, funeral and testamentary expenses, should be paid by his executors out of his estate. He piously wished, for the good of his soul, that all his debts should be duly paid. His executors were to take charge of his worldly affairs when he was gone, and he desires his executors to pay all his debts." With regard to the dictum of Sir W. P. Wood, V. C., in *Pembroke v. Friend*, which at first sight seems to be in favour of the decision of Sir J. Stuart, V. C., his Lordship said, "that *Woolstencroft v. Woolstencroft* being cited as an authority, Sir W. P. Wood, V. C., seemed to him merely to have sought to distinguish the case from *Pembroke v. Friend*, without intimating any approbation of the decision of Sir J. Stuart, V. C." Be that as it may, we think, upon the whole, that the rule for construing the act laid down by the Lord Chancellor is a sound one; and moreover, although the question is one of some nicety, that the rule in the case before his Lordship was rightly applied by him. With regard to the little flourish about the testator's pious wish, for the good of his soul, that all his debts should be duly paid, we think that it might as well have been omitted, inasmuch as Sir J. Romilly's Act, by making real estate assets for payment of simple contract debts, no longer leaves it either to accident or choice that a man's soul should be burthened with the sin of his dying at once wealthy and insolvent.

These decisions shew how necessary it is that practitioners, when preparing wills, should in the first place carefully inquire whether land to be devised is subject to any incumbrances, and also whether it is the intention of the testator to devise the land cum onere, or to exonerate it from its primary liability to mortgage debts under the statute; and then, in drawing wills, to express the meaning of the testator in such clear and unmistakeable terms as will render it unnecessary that the learned judges of the Court of Chancery should exert their ingenuity in the attempt, not invariably successful, of ascertaining what was the meaning of the testator upon the subject, or whether he meant anything at all.

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SOCIETY FOR PROMOTING THE AMENDMENT OF THE LAW.—The second general meeting of the present session was held at the rooms of the society, 3, Waterloo-place, on Monday, the 3rd inst., W. Ewart, Esq., M. P., in the chair, when a paper was read by Mr. Palling, intitled "Suggestions for Improvements in our System of Legislation by Private Bills."

The Queen has been pleased to direct letters-patent to be passed under the Great Seal, granting the dignity of a Knight of the United Kingdom of Great Britain and Ireland unto Jean Edouard Rémone, Esq., first Puisne Judge of the Supreme Court of the island of Mauritius,

## PUBLIC EXAMINATION OF STUDENTS.

HILARY TERM, 1881.

THE Council of Legal Education have approved of the following rules for the public examination of the students.

The attention of the students is requested to the following rules of the Inns of Court:—

“As an inducement to students to propose themselves for examination, studentships shall be founded of fifty guineas per annum each, to continue for a period of three years, and one such studentship shall be conferred on the most distinguished student at each public examination; and further, the examiners shall select and certify the names of three other students who shall have passed the next best examinations, and the Inns of Court to which such students belong may, if desired, dispense with any terms, not exceeding two, that may remain to be kept by such students previously to their being called to the Bar. Provided that the examiners shall not be obliged to confer or grant any studentship or certificate unless they shall be of opinion that the examination of the students they select has been such as entitles them thereto.”

“At every call to the Bar those students who have passed a public examination, and either obtained a studentship or a certificate of honour, shall take rank in seniority over all other students who shall be called on the same day.”

“No students shall be eligible to be called to the Bar who shall not either have attended during one whole year the lectures of two of the Readers, or have satisfactorily passed a public examination.”

**RULES FOR THE PUBLIC EXAMINATION OF CANDIDATES FOR HONOURS, OR CERTIFICATES ENTITLING STUDENTS TO BE CALLED TO THE BAR.**

An examination will be held in next Hilary Term, to which a student of any of the Inns of Court, who is desirous of becoming a candidate for a studentship or honours, or of obtaining a certificate of fitness for being called to the Bar, will be admissible.

Each student proposing to submit himself for examination will be required to enter his name at the treasurer's office of the Inn of Court to which he belongs on or before Tuesday, the 1st day of January next; and he will further be required to state in writing whether his object in offering himself for examination is to compete for a studentship or other honourable distinction, or whether he is merely desirous of obtaining a certificate preliminary to a call to the Bar.

The examination will commence on Tuesday, the 8th day of January next, and will be continued on the Wednesday and Thursday following.

It will take place in the Benchers' Reading-room of Lincoln's-inn; and the doors will be closed ten minutes after the time appointed for the commencement of the examination.

The examination by printed questions will be conducted in the following order:—

Tuesday morning, the 8th January, at half-past nine, on Constitutional Law and Legal History; in the afternoon, at half-past one, on Equity.

Wednesday morning, the 9th January, at half-past nine, on Common Law; in the afternoon, at half-past one, on the Law of Real Property, &c.

Thursday morning, the 10th January, at half-past nine, on Jurisprudence and the Civil Law; in the afternoon, at half-past one, a paper will be given to the students including questions bearing upon all the foregoing subjects of examination.

The oral examination will be conducted in the same order, during the same hours, and on the same subjects

as those already marked out for the examination by printed questions, except that on Thursday afternoon there will be no oral examination.

The oral examination of each student will be conducted apart from the other students; and the character of that examination will vary, according as the student is a candidate for honours or a studentship, or desires simply to obtain a certificate.

The oral examination and printed questions will be founded on the books below mentioned, regard being had, however, to the particular object with a view to which the student presents himself for examination.

In determining the question, whether a student has passed the examination in such a manner as to entitle him to be called to the Bar, the examiners will principally have regard to the general knowledge of law and jurisprudence which he has displayed.

A student may present himself at any number of examinations, until he shall have obtained a certificate.

Any student who shall obtain a certificate may present himself a second time for examination as a candidate for the studentship, but only at one of the three examinations immediately succeeding that at which he shall have obtained such certificate; provided, that if any student so presenting himself shall not succeed in obtaining the studentship, his name shall not appear in the list.

Students who have kept more than eleven terms shall not be admitted to an examination for the studentship.

THE READER ON CONSTITUTIONAL LAW AND LEGAL HISTORY will expect the candidates for honours to be well acquainted with the origin and progress of our Laws and Constitution, as explained in chap. 8, part 3, of Hallam's History of the Middle Ages.

He will expect them to be well acquainted with the most important provisions of the Great Charter, (on which they will find an excellent commentary in Sullivan's Lectures, 39, 40, 41, 42, 43, pp. 343 to 381); with the chapters in Hallam's Constitutional History which contain an account of the Reigns of Henry VIII, Elizabeth, the Stuarts, William III, and Anne; with the State Trials of persons eminent in our history, or which are remarkable for any other reason, from the time of Mary to the Accession of Anne; with the History of the Law of Treason, Libel, and of the Tenure of Land.

He refers those candidates especially to the 26th, 27th, 28th, and 29th chapters in the third volume of Lord Brougham's Political Philosophy; to the close of the 23rd chapter of Hume's History, vol. 3, p. 298, 8vo. ed., the passage beginning, “Thus have we pursued the History of England,” &c.; to the third volume of Millar's History; to the Preface to Gilbert on Uses, by Lord St. Leonards; the Preface to the State Trials; the 5th chapter of the second volume of Blackstone's Commentaries, (edition in which the text is preserved); and chapters 1, 2, and 3 of Mr. Justice Foster's work on the Crown Law.

All candidates will be expected to know the principal events in English History from the Conquest to the Accession of George III; to have an accurate knowledge of the Reigns of the Stuart Kings, of Magna Charta, the Petition of Right, the Bill of Rights, the Law of Treason, and the Act of Settlement.

THE READER ON EQUITY proposes to examine in the following books:—

1. Haynes's Outlines of Equity; Smith's Manual of Equity Jurisprudence; Hunter's Elementary View of the Proceedings in a Suit in Equity, part 1.

2. The Cases and Notes contained in the first volume of White & Tudor's Leading Cases, and the following Cases in the second volume:—*Ashburner v. Macquire*, *The Earl of Oxford's case*, and *Harding v. Glyn*, with the Notes on those Cases; the Act to further amend

the Law of Property and to relieve Trustees, 22 & 23 Vict. c. 35; the Act to further amend the Law of Property, 23 & 24 Vict. c. 38, ss. 10, 11, 12; Mitford on the Pleadings in the Court of Chancery—Introduction; c. 1, ss. 1, 2; c. 1, s. 3, (the first six pages); c. 2, s. 1; c. 2, s. 2, part 1, (the first three pages); c. 2, s. 2, part 2, (the first two pages); c. 2, s. 2, part 3; c. 3.

Candidates for certificates of having passed a satisfactory examination will be expected to be well acquainted with the books mentioned in the first of the above classes.

Candidates for a studentship or honours will be examined in the books mentioned in the two classes.

The READER on the LAW of REAL PROPERTY proposes to examine in the following books and subjects:—

1. Joshua Williams on the Law of Real Property, 5th ed.

2. On the Exercise of Powers: *Alexander v. Alexander*, (2 Ves. 640), and the Notes to that Case in Tudor's Leading Cases in Conveyancing, 299.

3. As to the Capacity and Incapacity to buy and sell Real Estate: Dart's Vendors and Purchasers, c. 1, 3rd ed.

4. The Stats. 22 & 23 Vict. c. 35; the 23 & 24 Vict. c. 38, ss. 8, 9, 12; and the 23 & 24 Vict. c. 145; and the Notes to those Acts in Hunter's or Langley's editions.

5. Hayes on the Common Law, Uses, and Trusts.

Candidates for honours will be examined in all the foregoing subjects; candidates for a certificate in those under heads 1, 2, and 3.

The READER on JURISPRUDENCE and the CIVIL LAW proposes to examine candidates for honours in the following books and subjects:—

1. The Roman Law of Property and of Inheritance: Warnkönig, Institutiones Juris Romani Privati, book 2 of the edition of 1860.

2. Wheaton's Elements of International Law, part 2, "International Rights of Self-Preservation, Independence, Equality, and Property."

3. Phillimore's Principles and Maxims of Jurisprudence, the first Thirty Maxims, with the Commentary on each.

Candidates for a certificate will be examined in—

1. The Institutes of Justinian, books 1 and 2, with the Notes in Sanders's edition, or the Explanations in Cumin's Manual.

2. Wheaton's Elements of International Law, part 2, "International Rights of Self-Preservation, Independence, Equality, and Property."

The READER on COMMON LAW proposes to examine in the following books and subjects:—

Candidates for a pass certificate will be examined as to—

1. The Ordinary Proceedings and Course of Pleading in an Action.

2. The Elements of the Law of Contracts, which may be read from Smith's Lectures on Contracts, (last edition, by Malcolm), omitting so much of Lecture 9 as relates to Joint-stock Companies.

3. The first Six Chapters of Broom's Legal Maxims, 3rd ed.

4. Archbold's Criminal Pleading, (by Welsby), book 2, "Offences against Individuals," parts 1 and 2, ss. 1-4.

Candidates for the studentship or honours will be examined in the above subjects, and also in—

5. The Principles of the Law of Evidence, so far as explained by Mr. Best in his Treatise on that subject, (part 1, cc. 1, 2; part 3, book 1, c. 2), last ed.

6. The following cases:—*Chasemore v. Richards*, (7

H. L. C. 349); *Hooper v. Lane*, (6 H. L. C. 449); *Morley v. Attenborough*, (3 Exch. 600); *Bonomi v. Backhouse*, (1 El., Bl., & El. 622, 646); and *Barnes v. Ward*, (9 C. B. 302).

7. Story on Bailments, 5th ed., cc. 2-4, (inclusive), which treat of Deposits, Mandates, and Gratuitous Loans.

By order of the Council,

RICHARD BETHELL, Chairman.

Council Chamber, Lincoln's-inn, Dec. 3, 1860.

THE LAWYER'S COMPANION FOR 1861.—This annual, edited by Mr. H. Moore, has just been published by V. & R. Stevens & Sons, 26, Bell-yard. It contains a Law Calendar for the Year, and a variety of matters of daily utility to attornies and solicitors; including interest, income tax, annuity, and other tables; with numerous short forms; a summary of practical statutes; an index of the statutes of the past session; tables and practical information relating to the stamp duties; together with a London and Provincial Law Directory, and a Diary for the Year.

COMMISSIONER TO ADMINISTER OATHS IN CHANCERY.—The Lord Chancellor has appointed James Mason, Gent., of 42, Chalcot-villas, Haverstock-hill, to be a London Commissioner to administer oaths in the High Court of Chancery.

acre, and Langham-street, Portland-place, Middlesex, book-seller, Jan. 9 at 11, London, div.—*John Waller*, Hitchin, Hertfordshire, dealer in oil, Dec. 31 at half-past 12, London, div.—*Robert Durrant* and *George Brock*, St. Michael Cole-ang, Norwich, tallow chandlers, Dec. 28 at 11, London, div.—*William John Cox*, Fetter-lane, City, grocer, Dec. 28 at 11, London, div.—*Edmund Gwyer*, Bristol, African merchant, Jan. 10 at 11, Bristol, fin. div.—*John Price*, Aber-tillery, Aberystroth, Monmouthshire, draper, Jan. 3 at 11, Bristol, div.—*James Granger*, *George Battison Haines*, W. *Richard Heath*, and *John Metcalf*, Birmingham, electro-platers, Jan. 7 at 11, Birmingham, div. sep. ests. of *James Granger* and *George Battison Haines*.—*Edward Evans*, Wednesbury, Staffordshire, draper, Jan. 7 at 11, Birmingham, first and fin. div.—*William Rawson Brame* and *John Brame* the younger, Birmingham, printers, Jan. 7 at 11, Birmingham, first and fin. div.—*John Hawken* the younger, Padstow, Cornwall, merchant, Jan. 2 at 12, Exeter, div.—*Frederick Appleyard*, Bradford, Yorkshire, tanner, Jan. 15 at 11, Leeds, div.—*Samuel Routledge*, Huddersfield, Yorkshire, dyer, Jan. 15 at 11, Leeds, div.

#### CERTIFICATES.

To be allowed, unless Cause be shown to the contrary on or before the Day of Meeting.

*Joseph Chadwick*, Willington Wharf, Augustus-street, Regent's-park, Middlesex, stone merchant, Dec. 28 at 1, London.—*Lazarus Levits*, New-street and Hutchison-street, Gravel-lane, Houndsditch, City, general trimming seller, Dec. 28 at half-past 11, London.—*Wm. Dickens*, Daventry, Northamptonshire, shoe manufacturer, Dec. 28 at half-past 11, London.—*John Addinell*, Stockton-upon-Tees, Durham, druggist, Jan. 10 at half-past 12, Newcastle-upon-Tyne.—*T. Rue*, East Stonehouse, Devonshire, draper, Dec. 31 at half-past 12, Plymouth.—*Henry Robert English*, Brierley Hill, Staffordshire, licensed victualler, Jan. 14 at 11, Birmingham.—*J. Rogers*, Shrewley, near Hatton, Warwickshire, builder, Jan. 14 at 11, Birmingham.—*Joseph Adams*, Nottingham, builder, Jan. 15 at half-past 11, Nottingham.—*Wm. Jones*, Nottingham, grocer, Jan. 15 at 11, Nottingham.—*William James Welch*, Nantwich, Cheshire, coachbuilder, Jan. 3 at 11, Liverpool.

To be granted, unless an Appeal be duly entered.

*Wm. Thomas Panter Green*, Northampton, currier.—*D. Taylor M<sup>r</sup> Pherson*, Noble-street, City, straw-hat dealer.—*Alfred Penny*, Richmond-villas, Holloway, Middlesex, coal merchant.—*Joseph Witherspoon*, Cheltenham, Gloucester-

shire, draper.—*William Long*, Newport, Monmouthshire, innkeeper.—*George Vickery Wakefield*, Swansea, Glamorganshire, hotel keeper.—*John Nicholson*, Liverpool, leather dealer.—*Richard Wainman Holden*, Sheffield, Yorkshire, cattle dealer.—*John Heald* the elder and *John Heald* the younger, Eckington, Derbyshire, shoemakers.—*Wm. Revitt*, Sheffield, Yorkshire, razor cutlery manufacturer.—*G. Gregg*, Sheffield and Wath-upon-Deane, Yorkshire, currier.—*Henry Mabson*, Ecclesfield, Yorkshire, butcher.

#### PETITION ANNULLED.

*James Solomon*, Blackfriars-road, Surrey, grocer.

#### SCOTCH SEQUESTRATIONS.

*William Thompson*, Musselburgh, cap proprietor.—*Alexander Asher*, Elgin, painter.

TUESDAY, Dec. 11.

#### BANKRUPTS.

**ELIAS MANSFIELD**, Chesterton, Cambridgeshire, boatwright, Dec. 20 at 1, and Jan. 24 at 2, London: Off. Ass. Johnson; Sols. Tarrant, Bond-court, Walbrook; Whitehead & French, Cambridge.—Pet. f. Dec. 10.

**JOHN BROTHERTON WHITAKER**, Little Britain, City, card maker, Dec. 21 at 12, and Jan. 24 at 1, London: Off. Ass. Johnson; Sols. Fisher & Sons, Aldersgate-street.—Pet. f. Dec. 7.

**FREDERIC TILLET**, Banner-street, St. Luke's, Middlesex, spiral flambeaux scaleboard and splint manufacturer, and Wellington-road, Bethnal-green, Middlesex, timber merchant, Dec. 21 and Jan. 25 at 12, London: Off. Ass. Cannan; Sols. Miller & Co., 10, Philpot-lane.—Pet. f. Oct. 13.

**JOHN WEDD MARTIN**, Yalding, Kent, farmer, Dec. 21 and Jan. 21 at 12, London: Off. Ass. Pennell; Sols. Doyle, 2, Yerulam-buildings, Gray's-inn, London; Morgan, Maidstone, Kent.—Pet. f. Dec. 8.

**HENRY RUDD KNIGHTS**, Bermondsey-street, Surrey, currier, Dec. 2 and Jan. 29 at 12, London: Off. Ass. Edwards; Sol. Hand, 22, Coleman-street, London.—Pet. f. Dec. 7.

**EDWIN TAYLOR**, Wimbourne, Dorsetshire, butcher, Dec. 21 and Jan. 29 at 1, London: Off. Ass. Lee; Sols. Church & Co., Southampton-buildings, London.—Pet. f. Dec. 8.

**HENRY ALFRED BROOM**, Russell-street, Covent-garden, Middlesex, licensed victualler, Dec. 21 at 2, and Jan. 29 at 1, London: Off. Ass. Edwards; Sol. Brutton, 27, Basinghall-street, London.—Pet. f. Dec. 10.

**CHARLES STATES**, Aldershot, Southampton, club-house keeper, Dec. 21 at 12, and Jan. 23 at 1, London: Off. Ass. Graham; Sol. Murliss, 3, Great James-street, Bedford-row, London.—Pet. f. Dec. 8.

**JOHN ROBERT SAMUEL HAYWARD**, Lodway, Somersetshire, apothecary, Dec. 24 and Jan. 23 at 11, Bristol: Off. Ass. Acranam; Sol. Clifton, Bristol.—Pet. f. Nov. 30.

**EDWARD WILLIAM LENNARD**, Redcar, Yorkshire, grocer, Dec. 21 and Jan. 21 at 11, Leeds: Off. Ass. Hope; Sols. Cariss & Cudworth, Leeds.—Pet. d. Dec. 10.

**CHARLES STEAD**, Huddersfield, Yorkshire, flock dealer, Dec. 21 and Jan. 25 at 11, Leeds: Off. Ass. Young; Sols. Snowdon & Emmet, Leeds; Brooks & Co., Ashton-under-Lyne.—Pet. d. and f. Nov. 28.

**JOHN SCOTT** the younger and **RICHARD WOODWARD POWELL**, Liverpool, tea merchants, (carrying on business under the firm of Scott, Powell, & Co.), Dec. 20 at 11, and Jan. 16 at 1, Liverpool: Off. Ass. Cazenove; Sols. Lowndes & Co., Liverpool.—Pet. f. Dec. 3.

**RICHARD HENRY CLOUGH**, Manchester, cotton dealer, Dec. 27 and Jan. 18 at 1, Manchester: Off. Ass. Herniman; Sol. Pemberton, Liverpool.—Pet. f. Nov. 24.

#### MEETINGS.

*Richard Goodacre*, Nottingham, grocer, Dec. 27 at 11, Nottingham, last ex.—*Alfred Rolfe*, Dorrington-street, Clerkenwell, Middlesex, timber merchant, Dec. 21 at 11, London, aud. ac.—*Edward Teaks*, Cambridge, butcher, Dec. 21 at 11, London, aud. ac.—*John Tripp*, Cross-street, Walworth, Surrey, tallow chandler, Dec. 21 at 12, London, aud. ac.—*Alfred Edward Hopkins*, Gresham-street, City, and

Shrewsbury, Shropshire, law stationer, Dec. 21 at half-past 11, London, aud. ac.—*Wm. F. Crafts*, Castle-street East, Oxford-street, Middlesex, printer, Dec. 21 at half-past 11, London, aud. ac.—*Richard Horrocks*, Liverpool, baker, Dec. 28 at 11, Liverpool, aud. ac.; Jan. 4 at 11, div.—*Thos. Walker*, Birmingham, provision dealer, Dec. 21 at 11, Birmingham, aud. ac.—*Hugh Parker*, Offley Shore, John Brewin, and *J. Rodgers*, Sheffield, Yorkshire, bankers, Dec. 23 at 10, Sheffield, aud. ac. joint est., and aud. ac. sep. ests. of *Hugh Parker* and *Offley Shore*.—*Wm. Fryer*, Norwich, boot manufacturer, Jan. 8 at 12, London, div.—*G. A. M. Aas*, Colechester-street, City, shipbroker, Jan. 2 at 1, London, div.—*James B. Bartlett* and *Wm. A. Bartlett*, Bristol, tailors, Jan. 10 at 11, Bristol, div. sep. est. of *Wm. A. Bartlett*.—*Wm. Bell*, Urpeth Mill, near Chester-le-Street, Durham, miller, Jan. 10 at half-past 11, Newcastle-upon-Tyne, div.

#### CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*George Harris*, Woking, Surrey, tailor, Jan. 4 at half-past 11, London.—*Wm. Pike*, High-street, Wapping, Middlesex, victualler, Jan. 2 at 12, London.—*George F. Larratt*, Coleman-street, London, lithographic printer, Jan. 1 at half-past 12, London.—*James Watt*, Mark-lane, City, and King-street, Hackney-road, Middlesex, canvas merchant, Jan. 2 at half-past 11, London.—*James E. Richards*, Dartmouth, (and not Portsmouth, as advertised in the Gazette of the 4th inst.), Devonshire, chemist, Jan. 2 at 12, Exeter.—*Edmund Ashworth Acton*, Ardwick, Manchester, general commission agent, Jan. 4 at 12, Manchester.—*George Fielder*, Manchester, woolstapler, Jan. 10 at 12, Manchester.—*Thomas Booth*, Manchester, grocer, Jan. 4 at 12, Manchester.—*Alexander Bain*, Ardwick, Manchester, draper, Jan. 9 at 12, Manchester.—*Charles Smith Harrison*, Glossop, Derbyshire, grocer, Jan. 4 at 12, Manchester.—*Henry Broadbent Gaskell*, Liverpool, broker, Jan. 3 at 11, Liverpool.

*To be granted, unless an Appeal be duly entered.*

*S. F. L. Pereira* and *John Grant*, Great Tower-street, City, wine merchants.—*John W. Jones* and *S. Dittrichstein*, Great St. Thomas the Apostle, City, merchants.—*D. Smith*, Markyate-street, Hertfordshire, straw-plait manufacturer.—*William Pitt*, Bishopsgate-street Without, City, hosier.—*J. Julian*, Noble-street, Falcon-square, wholesale milliner.—*J. F. Kent*, Croydon, Surrey, builder.—*Jane Ansell*, spinster, North Ockendon, Essex, grocer.—*John Axford* and *Charles Greenslade*, Bridgewater, Somersetshire, timber merchants.—*John Pooley*, Liverpool, and Peterborough, Northamptonshire, contractor.—*I. Shaw*, Macclesfield, Cheshire, joiner.—*Wm. Woolley*, Tipton, Staffordshire, boiler maker.—*George Brooks*, Newport, Shropshire, ironmonger.

#### PETITIONS ANNULLED.

*Joseph Linley*, Sheffield, Yorkshire, manufacturer of sheep shears.—*Wm. Kirkwood M'Libre*, Stonehouse, Devonshire, draper.

#### SCOTCH SEQUESTRATIONS.

*H. Wallace & Co.*, Glasgow, shoemakers.—*G. Rintoul*, jun., Glasgow, manufacturer.—*Andrew Keir*, Noss, near Wick, Caithness, farmer.—*Richard Jones*, Linlithgow, merchant.—*Mrs. Margaret Sutherland*, Parks of Inshes, near Inverness, farmer.—*George Banks*, Edinburgh, shoe manufacturer.

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cotton-waste dealer, Dec. 28 at 12, Manchester, aud. ac.—H. Baker, Nottingham, lace manufacturer, Dec. 27 at 11, Nottingham, aud. ac.—Robert Kemp Philp, Great New-street, Fetter-lane, City, publisher, Jan. 18 at 12, London, div.—I. Selke, Postern-row, Tower-hill, Middlesex, provision merchant, Jan. 11 at 12, London, div.—Henry Edgar Morgan, Oxford, confectioner, Jan. 4 at half-past 11, London, div.—Alfred Penny, Richmond-villas, Holloway, Middlesex, coal merchant, and Lloyd's Coffee-house, City, underwriter, Jan. 8 at half-past 2, London, div.—Benjamin G. Goode, Sutton, near Hounslow, Middlesex, brickmaker, Jan. 8 at 1, London, div.—Thomas Brookes, Birmingham, innkeeper, Jan. 7 at 11, Birmingham, div.—J. Merriman, Hyson-green, Nottinghamshire, lace manufacturer, Jan. 10 at 11, Nottingham, div.—J. Barlow, Cobridge, Burslem, Staffordshire, earthenware dealer, Jan. 7 at 11, Birmingham, div.—Christopher Denman, Ripley, Derbyshire, linen-draper, Jan. 10 at 11, Nottingham, div.—John Lord, Sidney Aquila Butterworth, and Horatio Butterworth, Shelf, near Halifax, Yorkshire, dyers, Jan. 4 at 11, Leeds, div. sep. est. of Sidney Aquila Butterworth.—Samuel Robson, York, hotel keeper, Jan. 4 at 11, Leeds, div.—Henry Binning and George Douson, Middlesbrough, Yorkshire, shipowners, Jan. 4 at 11, Leeds, div.

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## THE JURIST.

LONDON, DECEMBER 22, 1860.

WE proceed to conclude our analysis of the Common-law Procedure Act, 1860, (23 & 24 Vict. c. 126).

In two former numbers (Nos. 308 and 309) we finished the first head of our subject—"The Extension of Jurisdiction." There still remain the heads—"2. Process;" "3. Pleading;" "4. Procedure;" and "5. General Provisions."

## 2. Process.

First, it is to be observed that the statute puts a final end to real and mixed actions. By the 3 & 4 Will. 4, c. 27, s. 36, all real and mixed actions, and plaints in the nature of such, were abolished, except the writ of right of dower, writ of dower unde nihil habet, quare impedit, and ejectment, and plaints for freebench or dower. By the Common-law Procedure Act, 1862, (15 & 16 Vict. c. 76), ss. 168 et seq., the action of ejectment has been remodelled, and freed from the fictions by which it was encumbered. By the 26th

section of the present act "no writ of right of dower, or writ of dower unde nihil habet, and no plaint for freebench or dower in the nature of any such writ, and no quare impedit, shall be brought after the commencement of this act in any court whatsoever; but where any such writ, action, or plaint would now lie, either in a superior or in any other court, an action may be commenced by writ of summons issuing out of the Court of Common Pleas in the same manner and form as the writ of summons in an ordinary action; and upon such writ shall be indorsed a notice that the plaintiff intends to declare in dower, or for freebench, or in quare impedit, as the case may be." And by sect. 27, "the service of the writ, appearance of the defendant, proceedings in default of appearance, pleadings, judgment, execution, and all other proceedings and costs upon such writ, shall be subject to the same rules and practice, as nearly as may be, as the proceedings in an ordinary action commenced by writ of summons; and the provisions of the Common-law Procedure Act, 1862, and of the Common-law Procedure Act, 1854, shall apply to the writ and pleadings, and proceedings thereupon." So that *all* actions now commence by a writ

of summons—the valuable writ substituted by the Uniformity of Process Act, 2 Will. 4, c. 39—instead of the numerous and complicated modes of commencing actions which before that period disgraced our procedure. The idea of that writ seems to have been taken from the old subpoenas in Chancery and the Equity Exchequer, and it has placed our procedure on the natural and rational footing, that the first step towards enforcing the law against any person is by *citing* him to appear, and hear and answer what is alleged against him.

There are two other alterations of the form of process by this statute—one of which is, that the costs of writs of mandamus and injunction under the Common-law Procedure Act, 1854, may be included in such writs, and payments enforced in the same manner as costs payable under a rule of court, (sect. 32); and the other, that “writs of injunction against a corporation may be enforced either by attachment against the directors or other officers thereof, as in the case of a mandamus, or by writ of sequestration against their property and effects, to be issued in such form, and tested and returnable in like manner, as writs of execution, and to be proceeded upon and executed in like manner as writs of sequestration issuing out of the Court of Chancery.” (Sect. 33).

### 3. Pleading.

The first section on this subject which attracts attention is the 19th, which enacts, that “the joinder of too many plaintiffs shall not be fatal, but every action may be brought in the name of all the persons in whom the legal right may be supposed to exist; and judgment may be given in favour of the plaintiffs by whom the action is brought, or of one or more of them, or, in case of any question of misjoinder being raised, then in favour of such one or more of them as shall be adjudged by the Court to be entitled to recover: provided always, that the defendant, though unsuccessful, shall be entitled to his costs occasioned by joining any person or persons in whose favour judgment is not given, unless otherwise ordered by the court or a judge.” And the next enacts, that on the trial of such a cause, a defendant, who has pleaded a set-off, may obtain the benefit of it by “proving either that all the parties named as plaintiffs are indebted to him, notwithstanding that one or more of such plaintiffs was or were improperly joined, or on proving that the plaintiff or plaintiffs who establish their right to maintain the cause is or are indebted to him.” The 21st section provides, that “no other action shall be brought against the defendant by any person so joined as plaintiff in respect of the same cause of action.” The enactments in these three sections, which have the effect of bringing the system of the superior courts into accordance with that of the county courts, (see Pollock and Nichol’s County Court Practice, 107), seem improvements on the whole; but great care must be taken in practice for the future to remove from the record at the proper time the name of any plaintiff which has been improperly inserted; otherwise a judgment obtained by the defendant will be not only evidence against, but conclusive on a person who really had nothing to do with the suit, and whose name was inserted in it either from carelessness or the desire to injure him.

Under this statute a plaintiff in replevin may, in answer to an avowry, pay money into court in the same way as defendants in other actions, without working a forfeiture of the replevin bond, (sects. 23 and 24); and the defendant in an action on a bond, with a condition or defeasance, &c., with a penalty; and the defendant in an action for detaining the goods of the plaintiff, may, by leave of the court or a judge, pay money into court, (sect. 25).

### 4. Procedure.

Numerous acts of Parliament have been passed from time to time for restraining frivolous actions, or bringing in a superior court actions which ought to have been brought before an inferior tribunal. To these an important addition has been made by the 34th section of the present statute, which enacts—“When the plaintiff, in any action for an alleged wrong, in any of the superior courts, recovers by the verdict of a jury less than 5%, he shall not be entitled to recover or obtain from the defendant any costs whatever in respect of such verdict, whether given upon any issue or issues tried, or judgment passed by default, in case the judge or presiding officer before whom such verdict is obtained shall immediately afterwards certify on the back of the record, or on the writ of trial or writ of inquiry, that the action was not really brought to try a right besides the mere right to recover damages, and that the trespass or grievance in respect of which the action was brought was not wilful and malicious, and that the action was not fit to be brought.” The Court of Exchequer has held, in a case of *Wright v. Hale*\*, reported in a recent number of THE JURIST, that this section has a retrospective operation.

The statute contains a clause (sect. 36); expressed in the same language as the corresponding clauses in the former Common-law Procedure Acts, 15 & 16 Vict. c. 76, s. 222, and 17 & 18 Vict. c. 125, s. 96; empowering the superior Courts, and every judge thereof, and any judge sitting at Nisi Prius, at all times to amend all defects and errors in any proceedings under the provisions of the act.

### 5. General Provisions.

In its general provisions this statute follows the example of the former Common-law Procedure Acts. It contains an interpretation clause, (sect. 39); a clause empowering the judges to make general rules for carrying the statute into execution, (sect. 37); a clause authorising new forms of writs and other proceedings, (sect. 38); provisions relating to the Court of Common Pleas at Lancaster, and the Court of Pleas at Durham, (sects. 40, 41, 42); and a clause empowering the Crown to direct that all or any part of the act be extended to any court of record, (sect. 44). Finally, the statute came into operation on the 10th October, 1860, (sect. 43), and does not extend to Ireland or Scotland, (sect. 46).

Having given this analysis of the third Common-law Procedure Act, we proceed to make a few remarks on its general character and spirit.

First, it is to be observed, that one of the distinguishing features of the other Common-law Procedure Acts

\* See 6 Jur., N. S., part 1, p. 1212.

is very visible in this also—large discretionary powers vested in the courts and judges. While the *discretio judicis* is, to a certain extent, indispensable in every system of judicature, it has ever been looked on as a dangerous engine, easily perverted to the purposes of mischief and oppression, and consequently to be narrowly watched, and exercised with the greatest caution. “*Optima est lex quæ minimum relinquit arbitrio judicis; optimus judex qui minimum sibi.*” (Bacon, de Aug. Scient., lib. 8, c. 3, tit. 1, “Aphorism,” 46). The infallibility and impeccability of judicial tribunals is, and ever must be, an Utopian dream. Judges are like other men, and as such perform their functions not only better for the interests of the community, but with greater advantage and ease to themselves, when they are invested with no more power than is absolutely indispensable for the due discharge of those functions, and exercise them under the feeling of *responsibility*. The powers conferred on courts and judges by the former Common-law Procedure Acts, as well as those conferred by the present act, (see, in particular, the 13th, 28th, 29th, and 30th sections), are very extensive, and will require the soundest discretion in their exercise. And whatever may be urged in favour of vesting such powers in a *Court*, which consists of several members, and discharges its duties under the eye of the public, it is difficult to see what can be said in favour of vesting them in a *single judge* sitting at chambers, where the two principal checks on judicial misconduct and carelessness—the presence of a jury and the publicity of the proceedings—are removed; while even the check of appeal to the Court is in some cases taken away altogether, and in all (as is well known to every practitioner) is a right exercised at great disadvantage. The truth is, that the framers of the Common-law Procedure Acts, perceiving that under the old law sufficient discretionary powers were not vested in our courts and judges, have, perhaps not unnaturally, run into the opposite extreme, and invested them with too large discretionary powers, to the great risk of the interests of justice.

Secondly, this statute, as already remarked, has taken some further steps towards a fusion of law and equity. We have no desire to discuss that broad question on the present occasion; but it is admitted on all hands that there are cases, and some of those in the present statute seem among them, in which Courts of common law ought to be enabled to give complete equitable redress to their suitors, without driving them to the trouble and expense of filing a bill in equity.

With these observations we will now take our leave of the Common-law Procedure Act, 1860.

### Correspondence.

TO THE EDITOR OF “THE JURIST.”

SIR,—Lord Bacon was of opinion that Courts of equity should have the power “as well of relieving against the rigour of the law as of supplying the defect of the law\*.” Subsequent Chancellors, however, and in particular Lord Nottingham, defined the province of equity to be that of simply supplying the defect of the law. It seemed, indeed, rather difficult to maintain that Courts of equity could relieve against the rigour of the decisions of the Courts of common law, without at the same time rendering the former to some extent Courts of appeal from the latter. But although Lord

Bacon’s opinion is open to this objection, which has frequently been made against it, there is, after all, some degree of reason in it, which may possibly be derived from the observation of his master mind, by making allowance for the very primitive state of equitable jurisdiction in this country in his times, and perhaps also for the defective and obscure expression of the observation itself. In the first place, Lord Bacon’s observation was directed to criminal as well as civil matters, and he had not in contemplation exclusively the equitable relief afforded by the Court of Chancery or the Court of Exchequer. If his observation was found not to be applicable to them, so as practically to give them the power of relieving against the decisions in civil or criminal matters of the Courts of common law, it by no means follows from this that a portion of it is surplusage. It has frequently occurred to me, as a matter worthy of consideration, what did Lord Bacon really mean? Is there any portion of the administration of justice in this country to which his observation is applicable? Is the jurisdiction now exercised by the Home Secretary in reviewing convictions in grave criminal cases an equitable jurisdiction such as that suggested by Lord Bacon? I am of opinion that it is. The prerogative of mercy, in spite of some obsolete old statutes, remains one of the brightest jewels in the Crown of England. By a fiction of law, it is supposed, when a criminal offence has been committed, that the Crown is the injured party; it is therefore, says Blackstone, only “reasonable that he who is injured should have the power of forgiving.” However quaint this little piece of sophistry may appear, there can be little doubt that it is settled law that the Crown has an indisputable right of reviewing convictions in criminal cases. The only question, therefore, which remains is, whether this prerogative should continue to be exercised, as it now is, through the jurisdiction and at the instigation of the Home Secretary, or whether there should be established a court of criminal appeal.

Now, the arguments usually adduced by those who object to the present system are, that the jurisdiction of the Home Secretary is of a private character; that he has no power to administer oaths; that he has to deal with a question which does not require in particular the ingenuity of a trained mind, and which, after all, must be tried by common sense. Then it is said he is influenced by the Press; that the moment a notorious criminal is convicted a vast number of persons write letters to the newspapers; and that the whole of a criminal trial is systematically re-opened, with this grave objection, viz. that the persons who write to the newspapers, and for the newspapers, are under no obligation, as regular witnesses, to confine themselves to the exact truth, but that their testimony is usually, as in Dr. Smethurst’s case, taken into consideration by the Home Secretary. They say that the tone of the Press is an uncertain criterion, and therefore a dangerous one; that in trials of a political character the Press may be biased, and take a one-sided view of the trial; and, still further, that the Home Secretary may himself be influenced by party motives. They urge that a tribunal of lawyers is the most approved means of trying a case a second time, and they ask, “Why should not we have a court of criminal appeal?”

From these arguments I dissent, not alone on account of their fallacious and unsatisfactory nature, but also for other and important motives. It is quite clear, that inasmuch as the Home Secretary’s jurisdiction is based upon the conscience of the Crown, it must be secret. By no known means of transmutation can the mind of the Sovereign be turned into a public tribunal. But reserving to the Crown its prerogative of mercy, what position can be assumed by a criminal court of appeal? Why, that of a tribunal instituted for trying a man twice for the same offence,

\* “*Tractatus de Proferendis*,” &c., in the *De Augmentis*, xxxv.

contrary to the maxim of common law, from whose decision an ultimate appeal would lie. Now, nothing can be more calculated to bring discredit on the administration of justice in general than courts of appeal. What must a suitor think of the settled principles of law whose suit is successful before a Vice-Chancellor, whose decision is reversed, in a court not a hundred feet from his, a month or two afterwards, by the new decision of the Lord Chancellor or Lords Justices, whose decisions, in their turn, may be reversed by the House of Lords? In fact, it must be acknowledged that a criminal court of appeal would be open to all the defects of courts of appeal in general; it would add to the law's expense and delay, without affording any certain or satisfactory result in return. Then, with regard to the Press, it usually abstains from expressing its opinions, in the course of a criminal trial, until a verdict has been pronounced. If we had a criminal court of appeal, the Press would doubtlessly preserve the same delicate silence until after a final verdict had been pronounced. So that, so far as regards the fourth estate, a criminal court of appeal would leave the agitation made through it wholly unprovided for. If the trial happened to be a political one, the evil would not only be left unremedied, but would sometimes be aggravated by a double conviction, and the action of the equitable jurisdiction now exercised by the Home Secretary would not be so freely exercised as it is at present. As to his being influenced by party motives, I should regret to see that day come when a minister of the Crown, acting in a judicial capacity, should even be suspected of wanting that honour and integrity which has characterised the judicial bench of England for the last two centuries.

I have the honour, Sir, to be, your obedient servant,  
M. R. B.

#### FREE ADMISSION TO COURTS OF JUSTICE —THE CENTRAL CRIMINAL COURT.

We take the following from *The Times* of Monday, the 10th instant:—

"The Court of Common Council, at their last meeting, on the recommendation of the Officers and Clerks Committee, to whom the matter was referred for investigation, passed an unanimous resolution abolishing the practice, long so hateful to the public, of receiving fees for admission to the galleries of the Central Criminal Court. The report of the committee disclosed some curious facts in connexion with the subject. They say the records of the corporation in the custody of the town clerk afford no information as to the origin of the practice. The object, they understand, was to prevent the admission of improper characters to the galleries, and thereby secure due order in the courts. The charge for admission was fixed by the gallery keepers, who are appointed by the sheriffs, and varied in amount according to circumstances. The gross receipts in 1853-4 were 125*l.* 2*s.* 0*d.*, the expenses 39*l.* 6*s.*, balance 86*l.* 17*s.* 6*d.*; in 1854-5, 121*l.* 12*s.* 1*d.*, expenses 38*l.* 16*s.* 3*d.*, surplus 82*l.* 15*s.* 10*d.*; in 1855-6, 174*l.* 6*s.* 8*d.*, expenses 53*l.* 12*s.* 3*d.*, balance 120*l.* 14*s.* 5*d.*; in 1856-7, 172*l.* 9*s.* 3*d.*, expenses 49*l.* 14*s.* 9*d.*, leaving 122*l.* 14*s.* 6*d.*; 1857-8, 137*l.* 3*s.* 7*d.*, expenses 42*l.* 16*s.* 4*d.*, surplus 94*l.* 7*s.* 3*d.*; and in 1858-9, 181*l.* 1*s.* 7*d.*, expenses 46*l.* 7*s.* 1*d.*, balance 134*l.* 14*s.* 6*d.*. The yearly average in those six years was—gross receipts 151*l.* 19*s.* 3*d.*, expenses 44*l.* 18*s.* 7*d.*, leaving 107*l.* 0*s.* 8*d.*. The committee proceed to say that it was the custom to divide the balance into three equal parts, which were appropriated to the Lord Mayor for the time being, the sheriffs, and the sword-bearer. The committee unanimously passed a resolution, 'That courts of justice, under proper regulations, should be open to the public;

that the practice of receiving fees for the admission of persons to the galleries of the Central Criminal Court is highly objectionable, and ought at once to be abolished; and that the regulations for the free admission of the public thereto should be under the control of the sheriffs.' They added, that on acquainting the Lord Mayor and Sheriffs with the opinions they had formed, they expressed themselves heartily willing to acquiesce in any arrangement for the abolition of the fees, provided that satisfactory regulations could be made for admission to the galleries, and the due preservation of order in the court, and that the expenses now paid by the sheriffs be defrayed by the corporation. Those expenses the committee recommend to be so borne, and they suggest that the sheriffs be empowered to issue tickets of admission to the galleries, leaving it to the discrimination of the officers in charge as to the entry of other persons when the galleries are not entirely occupied; but that under no circumstances should admission be obtained by a money payment. Deputy Fry, the chairman of the committee, in bringing up the report to the Common Council, expressed his surprise that a practice so wholly objectionable had been allowed to last so long. He went on the great principle that courts of justice should be open to the public; and if there was one more than another of our many English privileges which it was our pride to boast of and our duty to maintain, it was the having our judicial tribunals open to the community, and a free press to report their proceedings. Alderman Rose, in seconding the adoption of the report, adverted to the annoyance the practice of taking fees gave him when he served the office of sheriff, and to his unavailing efforts to put an end to it. The most objectionable feature in the practice was, that a sliding scale of fees obtained, and that in proportion to the interest of the trial which happened to be pending, so the prices went up or down. He believed great sums of money had been extracted from the public in that way from time to time, to the great scandal, as he thought, of the corporation of London. The Lord Mayor also expressed the gratification it afforded him to assist, at the commencement of his year of office, in putting an end to a custom so objectionable on every ground. Mr. Charles Young contended that there would be no security that the practice would not still obtain of taking money at the door. Dr. Abraham said if the admission was to be by ticket, it would not be an open court, and that the court could only be open by admitting all persons to the extent of the available space. The remainder of the discussion, in which Mr. R. N. Philipps, Dr. Ross, Mr. Connell, Deputy Lott, and Mr. Rowe took part, turned upon the most desirable mode of admitting the public in future, and eventually the report was in substance unanimously adopted."

It certainly is matter of surprise that the abominable and un-English practice of exacting money for admission to a court of justice should so long have prevailed in one of the most important of our criminal tribunals; and only wish we could add, that free ingress to that tribunal of all the public, who conduct themselves with decorum, is to be unrestricted for the future. It seems, however, that although money payment is abolished, a condition precedent to admission, in the shape of a ticket from the sheriffs, is still to be required—thus supplying those functionaries with unlimited means of *packing the court*, should they be so minded. Still, the course taken in this matter by the Common Council, and the present Lord Mayor and Sheriffs, is very much to their credit, and we may venture to hope that in time this new restriction will follow the fate of its predecessor.

## MEETING OF PARLIAMENT.

THE following proclamation appears in *The Gazette* of Tuesday last:—

"Whereas our Parliament stands prorogued to Thursday, the 3rd day of January next; we, with the advice of our Privy Council, do hereby publish and declare that the said Parliament shall be further prorogued, on the said 3rd day of January next, to Tuesday, the 5th day of February next; and we have given order to our Chancellor of that part of our United Kingdom called Great Britain to prepare a commission for proroguing the same accordingly. And we do hereby further, with the advice aforesaid, declare our royal will and pleasure, that the said Parliament shall, on the said Tuesday, the 5th day of February next, assemble and be holden for the dispatch of divers urgent and important affairs; and the Lords Spiritual and Temporal, and the knights, citizens, and burgesses, and the commissioners for shires and burghs of the House of Commons, are hereby required and commanded to give their attendance accordingly, at Westminster, on the said Tuesday, the 5th day of February next.

"Given at our Court at Windsor, this 17th day of December, in the year of our Lord 1860, and in the twenty-fourth year of our reign.

"GOD SAVE THE QUEEN."

## SOCIETY FOR PROMOTING THE AMENDMENT OF THE LAW.

—A meeting of this society was held at its rooms, 3, Waterloo-place, on Monday, the 17th inst., Lord Stanley in the chair; when a paper was read by Mr. Edward Webster, intitled "Observations on the Report of the Select Committee of the House of Lords, 1856, relating to the Expediency of carrying into Effect the Sentence of Death before official Spectators only, and on a Substitute for Capital Punishment."

**JURIDICAL SOCIETY.**—A meeting of this society was held at its rooms, 4, St. Martin's-place, Trafalgar-square, Mr. F. S. Reilly in the chair, when a paper was read by Mr. S. M. Leake, on "The Taxation of Suitors."

## TUESDAY, Dec. 18.

## BANKRUPTS.

**FREDERICK YOUNG**, Basinghall-street, City, woollen warehouseman, Jan. 9 at half-past 12, and Jan. 29 at 12, London: Off. Ass. Graham; Sols. J. & J. H. Linklater & Co., 7, Walbrook, London.—Pet. f. Dec. 13.

**PHILIP INGS**, Moretown Ringwood, Hampshire, artificial manure manufacturer, Jan. 2 at half-past 1, and Jan. 29 at half-past 12, London: Off. Ass. Stansfeld; Sols. Morris & Co., Moorgate-street-chambers, London.—Pet. f. Dec. 15.

**JOHN GEORGE**, Pemberton-row, City, licensed victualler, Jan. 1 at half-past 2, and Feb. 5 at 2, London: Off. Ass. Edwards; Sol. Smith, 13, Tokenhouse-yard, London.—Pet. f. Dec. 15.

**WILLIAM NEWLAND WILLIAMS**, Farnham, Surrey, chemist, Jan. 1 at 2, and Feb. 5 at 12, London: Off. Ass. Lee; Sols. Dyne & Harvey, 61, Lincoln's-inn-fields, London.—Pet. f. Dec. 17.

**THOMAS BAGLEY COUSENS**, Lloyd's Coffee-house, and St. Michael's-alley, City, underwriter, Jan. 1 at 12, and Feb. 5 at 1, London: Off. Ass. Lee; Sols. J. & J. H. Linklater & Co., 7, Walbrook, London.—Pet. f. Dec. 17.

**GEORGE ROBSON**, Handsworth, Staffordshire, saddler, Jan. 7 and 28 at 11, Birmingham: Off. Ass. Whitmore; Sols. Hodgson & Allen, Birmingham; Caldicott & Canning, Dudley.—Pet. d. Dec. 14.

**THOMAS HARRIS**, Cardiff, Glamorganshire, cabinet maker, Jan. 1 and Feb. 5 at 11, Bristol: Off. Ass. Miller; Sols. Bevan & Co., Bristol.—Pet. f. Dec. 6.

**CHARLES STARK** and **WILLIAM STARK**, Mark, Somersetshire, corn factors, Dec. 31 and Jan. 29 at 11, Bristol: Off. Ass. Acraman; Sols. Clark & Co., Bristol.—Pet. f. Dec. 8.

**EDWARD WILLIAMS**, Wrexham, Denbighshire, builder, Dec. 31 and Jan. 18 at 11, Liverpool: Off. Ass. Bird; Sols. Jones, Wrexham; Evans & Co., Liverpool.—Pet. f. Dec. 12.

**JOHN SELLARS**, Newton Heath and Manchester, manufacturing chemist, (trading under the firm of John Sellars & Co.), Jan. 3 and 22 at 12, Manchester: Off. Ass. Pott; Sols. Kershaw & Bullock, Manchester.—Pet. f. Dec. 11.

## MEETINGS.

**Robert D. White** and **John Gregory**, Haymarket, Middlesex, East India army agents, Jan. 1 at 2, London, pr. d.—**John W. Jones**, Liverpool, commission merchant, Dec. 31 at 11, Liverpool, pr. d.—**Samuel Head**, Woodbridge, Suffolk, upholsterer, Jan. 12 at 1, London, last ex.—**Philip Wamsley**, **Thomas Hammersley**, and **Frederick Hammersley**, Leek, Staffordshire, silk manufacturers, Jan. 25 at 11, Birmingham, aud. ac.; Feb. 1 at 11, div.—**William Dickens**, Daventry, Northamptonshire, shoe manufacturer, Jan. 9 at 11, London, div.—**John T. Russell**, Northampton, linen draper, Jan. 8 at 1, London, div.—**William Pitt**, Bishopgate-street Without, hostler, Jan. 10 at 2, London, div.—**Silvano Francisco Luis Peretia** and **John Grant**, Great Tower-street, City, wine merchants, Jan. 10 at 1, London, div. sep. est. of **S. F. L. Peretia**.—**Peter Doyle**, Wapping-wall, Middlesex, sail maker, Jan. 10 at 11, London, div.—**Alfred Edward Hopkins**, Gresham-street, London, and Shrewsbury, Shropshire, law stationer, Jan. 10 at half-past 12, London, div.—**William Ogden Young**, Sun-court, Cornhill, London, and Manchester and Liverpool, insurance broker, Jan. 15 at 1, London, div.—**James Starkey**, Horseferry-road, Westminster, Middlesex, builder, Jan. 15 at 1, London, fin. div.—**William Henry Edmonds**, Wroughton, Wiltshire, horse dealer, Jan. 10 at 11, Bristol, div.—**Wm. Watts**, Southam, Warwickshire, builder, Jan. 16 at 11, Birmingham, div.—**John Williams**, Horseley-heath, Tipton, Staffordshire, chemist, Jan. 24 at 11, Birmingham, div.—**Thomas Hancorn**, Hereford, timber merchant, Jan. 16 at 11, Birmingham, div.

## CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

**Alfred Edward Hopkins**, Gresham-street, London, and Shrewsbury, Shropshire, law stationer, Jan. 10 at 1, London.—**Elizabeth Lynn Moore**, widow, and **Joseph Lynn Moore**, Dorking, Surrey, carpenters, Jan. 9 at half-past 2, London.—**Peter Doyle**, Wapping-wall, Middlesex, sail maker, Jan. 9 at 1, London.—**Beaumont Clayton**, Ketton, Rutlandshire, stone merchant, Jan. 18 at 12, London.—**Paul Whitworth**, Stalybridge, Cheshire, grocer, Jan. 24 at 12, Manchester.—**John Ronbotham**, Manchester, picture dealer, Jan. 18 at 12, Manchester.—**George Royle**, Sutton, near St. Helena, Lancashire, flint-glass manufacturer, Jan. 8 at 12, Liverpool.—**John Cubbon**, Liverpool, joiner, Jan. 8 at 11, Liverpool.—**George Haden Hickman** and **Alfred Hickman**, Bilston, Staffordshire, iron manufacturers, Jan. 11 at 11, Birmingham.—**Frederick Baker**, Wednesbury, Staffordshire, draper, Jan. 18 at 11, Birmingham.—**James Tonks**, Walsall, Staffordshire, currier, Jan. 25 at 11, Birmingham.—**James Thomson**, **John Thomson**, and **Samuel Woodhouse**, Birmingham, Manchester and Scotch warehousemen, Jan. 31 at 11, Birmingham.

*To be granted, unless an Appeal be duly entered.*

**Robert Folkhard Adams**, Stowmarket, Suffolk, pipe maker.—**Joseph John Richard Eyke**, George-yard, Milton-street, Cripplegate, City, carman.—**Eugene M'Sweeney**, Fenchurch-street, City, merchant.—**Robert Parker**, Tooley-street, Surrey, wheelwright.—**Michael Mulrenan**, Great Dover-street, Southwark, Surrey, leather dealer.—**Charles Botten**, Crawford-passage, Clerkenwell, Middlesex, brass founder.—**George Johnson**, Durham-place, Hackney-road, Middlesex, and Lower Marsh, Lambeth, Surrey, shoe manufacturer.—**James Knight** the younger, Barge-yard-chamber, Bucklersbury, City, scrivener.—**Jurgen Moss**, Swansea, Glamorganshire, ship broker.—**Thomas Young**, Liverpool, tea dealer.—**Thomas Johnson**, Bilston, Staffordshire, iron merchant.—**Thomas Ragg**, Dawley, Shropshire, clerk in orders.—**John Siddons** and **William Clark**, Great Bridge, Staffordshire, ironfounders.

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**John Lockhart White**, Glasgow, plumber.

## CLERICAL, MEDICAL, AND GENERAL LIFE ASSURANCE SOCIETY, 13, St. James's-square, London.

ESTABLISHED 1824.

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December, 1860.

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See Law List, 1860, pages 826 and 827.

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## GAZETTES.—FRIDAY, Dec. 21.

## BANKRUPTS.

**JAMES WINTER**, Rosalyn-terrace, Hampstead, Middlesex, surgeon, Jan. 3 at 1, and Jan. 31 at 12, London: Off. Ass. Johnson; Sol. Stopher, 30, Coleman-street, City.—Pet. f. Dec. 20.

**JAMES BROOKS** and **SAMUEL PITTS** the younger, Upper Thames-street, City, wholesale ironmongers, Dec. 31 at 11, and Feb. 4 at 12, London: Off. Ass. Pennell; Sol. Yonge, 151, Strand, Middlesex.—Pet. f. Dec. 10.

**HENRY FOULKES**, John-street, Union-street, Kennington-road, Surrey, omnibus proprietor, Dec. 31 at half-past 2, and Feb. 4 at half-past 12, London: Off. Ass. Pennell; Sol. Grant, 87, Nicholas-lane, City.—Pet. f. Dec. 18.

**FREDERICK WILKINS**, Gloucester-terrace, New-road, Whitechapel-road, Middlesex, egg merchant, Jan. 8 at half-past 2, and Feb. 12 at 2, London: Off. Ass. Edwards; Sol. Simpson, 13, Wellington-street, London-bridge.—Pet. f. Dec. 12.

**JOHN JACOB SCHENCK**, Old Broad-street, City, merchant, (carrying on business under the style or firm of John Jacob Schenck & Co.), Jan. 8 and Feb. 12 at 12, London: Off. Ass. Lee; Sols. Venning & Co., 9, Tokenhouse-yard, City.—Pet. f. Dec. 11.

**JOHN GRAY** and **JOHN ROBERT HENSON**, Epsom, Surrey, upholsterers, (trading under the style or firm of Gray & Henson), Jan. 1 at 3, and Feb. 5 at 2, London: Off. Ass. Lee; Sol. Michael, 7, Old Jewry, City.—Pet. f. Nov. 8.

**GEORGE DODD**, Tunstall, Staffordshire, shoe dealer, Jan. 10 and Feb. 2 at 11, Birmingham: Off. Ass. Whitmore; Sols. Smith, Birmingham; Harding, Burslem.—Pet. d. Dec. 19.

**WILLIAM RIDER**, Tunstall, Staffordshire, provision dealer, Jan. 10 and Feb. 2 at 11, Birmingham: Off. Ass. Kinnear; Sols. Smith, Birmingham; Harding, Burslem.—Pet. d. Dec. 18.

**GEORGE GRIMMETT**, Birmingham, corn dealer, Jan. 14 and Feb. 11 at 11, Birmingham: Off. Ass. Whitmore; Sol. Smith, Birmingham.—Pet. d. Dec. 20.

**WILLIAM SAMPSON**, St. Thomas the Apostle, late of Highampton, Devonshire, innkeeper, Jan. 5 and 30 at 12, Exeter: Off. Ass. Hirtzel; Sol. Terrell, Exeter.—Pet. f. Dec. 13.

**THOMAS HINDLE**, Everton, Lancashire, builder, Dec. 31 and Jan. 23 at 11, Liverpool: Off. Ass. Cazenove; Sol. Yates, jun., Liverpool.—Pet. f. Nov. 16.

**JAMES LBYLAND HODGSON**, Manchester, money scrivener, Jan. 3 and 30 at 12, Manchester: Off. Ass. Herniman; Sols. Thomas & Wharton, Manchester.—Pet. f. Dec. 19.

**GEORGE WILKINSON**, Macclesfield, Cheshire, joiner, Jan. 3 and 23 at 12, Manchester: Off. Ass. Fraser; Sols. Parrott & Co., Macclesfield.—Pet. f. Dec. 19.

**JOHN STRACHAN**, Newcastle-upon-Tyne, common brewer, Jan. 8 at half-past 11, and Feb. 12 at 12, Newcastle-upon-Tyne: Off. Ass. Baker; Sols. Scaife, Newcastle-upon-Tyne; Bolding & Simpson, 17, Gracechurch-street, London.—Pet. f. Dec. 14.

## MEETINGS.

*Geo. Gee*, Beckford-row, Walworth-road, Surrey, mercer, Jan. 4 at 1, London, aud. ac.—*Thomas Alfred Pickering*, Pigott-street, Limehouse, Middlesex, manure dealer, Jan. 1 at 3, London, aud. ac.—*Henry Edgar Morgan*, St. Mary Magdalene, Oxford, confectioner, Jan. 3 at 11, London, aud. ac.—*Robert Clarke Ward*, Queen's-terrace, Marlborough-road, Chelsea, Middlesex, linendraper, Jan. 2 at half-past 12, London, aud. ac.; Jan. 11 at half-past 12, div.—*W. Wright*, Fulshawe, Cheshire, cattle dealer, Jan. 17 at 12, Manchester, aud. ac.; Jan. 24 at 12, div.—*Joseph Fulford*, Manchester, brewer, Jan. 8 at 12, Manchester, aud. ac.; Jan. 22 at 12, div.—*Samuel Robson*, White Swan Hotel, Leeds, wine merchant, Jan. 3 at 11, Leeds, aud. ac.—*John Lord*, *Sidney Aquila Butterworth*, and *Horatio Butterworth*, Shelf, near Halifax, Yorkshire, dyers, Jan. 3 at 11, Leeds, aud. ac. sep. ests. of *Sidney Aquila Butterworth* and *Horatio Butterworth*.—*Henry Binning* and *George Dawson*, Middlesborough, Yorkshire, shipowners, Jan. 3 at 11, Leeds, aud. ac.—*Wm. Tate*, Leeds, Yorkshire, dyer, Jan. 3 at 11, Leeds,

aud. ac.—*Matilda Archer*, Filey, Yorkshire, grocer, Jan. 3 at 11, Leeds, aud. ac.—*Maximilian Guthind*, Noble-street, City, merchant, Jan. 11 at 1, London, div.—*Samuel Atack*, Leeds, Yorkshire, builder, Jan. 11 at 11, Leeds, div.—*Edw. Turnbull*, West Hartlepool, Durham, shipowner, Jan. 11 at 12, Newcastle-upon-Tyne, div.

## CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*Stephen Rogers*, Carnaby-street, Regent-street, Middlesex, licensed victualler, Jan. 11 at half-past 11, London.—*Thos. Clark*, Midhurst, Sussex, tanner, Jan. 11 at 1, London.—*Lewis Powell*, Chapel-place, Cavendish-square, Middlesex, builder, Jan. 11 at half-past 11, London.—*Albert Lee Ward*, Fenchurch-street, City, insurance broker, Jan. 11 at 12, London.—*Charles Herbert*, Churton-street, Belgrave-road, Pimlico, Middlesex, printer, Jan. 11 at half-past 1, London.—*John Bayless Widnell*, Regent-st., Middlesex, mantle manufacturer, Jan. 11 at 11, London.—*Anthony Harris*, Sevenoaks, Kent, licensed victualler, Jan. 14 at half-past 12, London.—*Wm. Boyce*, East Dereham, Norfolk, printer, Jan. 14 at 2, London.—*Wm. Hill Abram*, Fairfield, Lancashire, upholsterer, Jan. 24 at 12, Manchester.—*Thomas Alfred Ragg*, Birmingham and Edgbaston, Warwickshire, bookseller, Jan. 14 at 11, Birmingham.

*To be granted, unless an Appeal be duly entered.*

*John Lee Stevens*, Fish-street-hill, City, dealer in iron.—*Robert D. Clegg* and *Frederick Angerstein*, Friday-street, Cheapside, and Fleet-street, City, dealers in atmospheric clocks.—*William Jones*, New-road, Whitechapel, Middlesex, dairyman.—*G. Bydder*, Swansea, Glamorganhire, brewer.—*Chas. Gannett*, St. Mary's, Cardiff, Glamorganhire, outfitter.—*Charles Jones Thomas*, Newport, Monmouthshire, bonded store merchant.—*Richard Croxley*, Brighton, Sussex, builder.—*John Hullah*, St. Martin's Hall, Long-acre, and Langham-street, Portland-place, Middlesex, bookseller.

## PETITION ANNULLED.

*James Berger*, Great Tower-street, City, broker.

## PARTNERSHIP DISSOLVED.

*Matthew A. Fitter* and *George Warden*, Birmingham, attorneys and solicitors.

## TUESDAY, Dec. 25.

## BANKRUPTS.

**CHARLES WEST**, Brasted, Kent, baker, Jan. 8 at 11, and Feb. 7 at 1, London: Off. Ass. Bell; Sols. Matthews & Co., 2, Arthur-street West, London-bridge.—Pet. f. Dec. 22.

**NATHANIEL SHATTSWELL DODGE** and **RAFFAELLO LOUIS GIANDONATI**, St. Paul's-churchyard, City, dealers in India-rubber goods, Jan. 8 at half-past 1, and Feb. 7 at 2, London: Off. Ass. Johnson; Sols. Atkinson & Co., Church-court, Lothbury.—Pet. f. Dec. 22.

**JOHN GRIFFITH**, Hanway-street, Oxford-street, Middlesex, bookseller, Jan. 4 at 2, and Feb. 8 at 1, London: Off. Ass. Whitmore; Sols. Lawrence & Co., 14, Old Jewry-chambers, Old Jewry.—Pet. f. Dec. 22.

**ROBERT BEARD**, Snow's-fields, Bermondsey, Surrey, wheelwright, Jan. 9 at 2, and Feb. 6 at 12, London: Off. Ass. Stansfeld; Sols. J. & W. Butler, 191, Tooley-street, London.—Pet. f. Dec. 22.

**JOHN HATFIELD**, formerly of South Molton-street, Oxford-street, but now of Connaught-terrace, Hyde-park, Middlesex, milliner, Jan. 8 at 3, and Feb. 12 at half-past 2, London: Off. Ass. Edwards; Sol. Chapple, 19, Great Carter-lane, London.—Pet. f. Dec. 21.

**JOSEPH AGATE**, Emsworth, Hampshire, grocer, Jan. 8 at 9, and Feb. 12 at half-past 2, London: Off. Ass. Edwards; Sols. Way, Portsea, Hampshire; Watson & Sons, 12, Bouverie-street, Fleet-street, London.—Pet. f. Dec. 21.

**DAVID HOLLIN**, Leicester, shoe manufacturer, Jan. 10 and 31 at 11, Nottingham: Off. Ass. Harris; Sol. Haxby, Leicester.—Pet. d. Dec. 20.

**GEORGE BESLEY**, Highbridge, Somersetshire, innkeeper, Jan. 7 and Feb. 4 at 11, Bristol: Off. Ass. Miller; Sols. King & Plummer, Bristol.—Pet. f. Dec. 15.

**PETER WESTON AYLES**, Weymouth, Dorsetshire, builder, Jan. 4 and 31 at 12, Exeter: Off. Ass. Hirtzel; Sols. Tizard, Weymouth; Turner & Hirtzel, Exeter.—Pet. f. Dec. 22.

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## THE JURIST.

LONDON, DECEMBER 29, 1860.

PARLIAMENT has been summoned to meet for the despatch of business on the 5th February next, when there is every reason to expect that, as usual, the session will commence with ample promises of law reform, and that countless projects directed to that end, with every degree of merit and demerit, will be presented to the Legislature. Judging by what has been witnessed in previous sessions, it would be difficult to predict how far those promises will be redeemed, and which of those projects will stand even a reasonable chance of passing into law before the close of the session. We, at least, are not going to offer any prophecies or conjectures upon the matter, and will content ourselves with merely expressing the hope that sound and valuable measures of law reform will be introduced and carried, and that all pseudo ones will meet their deserved re-

jection, and be consigned to oblivion, except so far as their fate may serve as a warning to all who may be disposed to intrude similar projects for the future.

Among the many subjects to which the attention of the Legislature will probably be directed is that of the law and practice relative to the qualification, mode of summoning, and payment of persons who serve on juries—matters well worthy the attention of the Legislature, and on which reform seems much required.

The expression by which our common-law mode of trial is usually denoted, "trial by jury," is unquestionably a misnomer, and has given rise to many misconceptions. It is a trial by "judge and jury," and we venture to say, that with all its faults, real or imaginary, it is immeasurably superior to any other mode of trial hitherto devised in any country, and fully deserves the esteem and affection in which it has in every age been held by Englishmen in general. True it is that its utility has been questioned of late, and that it has been dispensed with by statute in certain cases to

which it is unsuited, as well as in some others where, in our humble judgment, it ought not to have been interfered with. But the system, however good in principle, is not, as worked in practice, without its faults, which have produced their natural fruits in creating a prejudice against it in the minds of many, and have often induced persons summoned to serve on juries to evade that duty if possible. Others, indeed, try to escape from it on the ground that it is a waste of their time; but such persons are unfit for a land of freedom, and it is only to be regretted that their lot has been cast in one. At all events, "*lex non favet delictorum votis*," and the unconstitutional and selfish inclinations of such persons ought never to be adopted as a basis of legislation. And as, according to the true old maxim, "*confirmat usum qui tollit abusum*," that legislator is the best friend of our jury system who relieves it from the evils that have crept into it, either from unsound laws, or the injudicious administration of wise ones.

Previous to the existing Jury Act, 6 Geo. 4, c. 50, great abuses prevailed in the mode of striking juries, and the system of "packing" seems to have been carried to an enormous extent, with little or no check upon it. In one case, where counsel complained of a jury on the ground that they had been packed, it was answered by the Bench—"If by *packing* a jury you mean *selecting* a jury, the officer had a right to do so." This, of course, could not be borne, and the statute in question was passed to remedy that evil, together with some others. The 1st section enacts—"Every man, except as hereinafter excepted, between the ages of twenty-one years and sixty years, residing in any county in England, who shall have, in his own name, or in trust for him, within the same county, 10*l.* by the year above reprises in lands or tenements, of freehold, copyhold, or customary tenure; . . . or who shall have within the same county 20*l.* by the year above reprises in lands or tenements held by lease or leases for the absolute term of twenty-one years, or some longer term; . . . or who, being a householder, shall be rated or assessed to the poor rate, or to the inhabited house duty, in the county of Middlesex, on a value of not less than 30*l.*, or in any other county on a value of not less than 20*l.*; or who shall occupy a house containing not less than fifteen windows, shall be qualified and shall be liable to serve on juries for the trial of all issues joined in any of the King's courts of record at Westminster, and in the superior courts, *both civil and criminal*, of the three counties palatine, and in all courts of assize, nisi prius, oyer and terminer, and gaol delivery, such issues being respectively triable in the county in which every man so qualified respectively shall reside; and shall also be qualified and liable to serve on grand juries in courts of sessions of the peace, and on petty juries for the trial of all issues joined in such courts of sessions of the peace, and triable in the county, riding, or division in which every man so qualified respectively shall reside." In Wales the qualification is one-third lower, but in every other respect the liability is the same. Sect. 30 provides that the Courts may order special juries to be struck. Sect. 31 provides, "that every man who shall be described in the jurors' book for any county in England, Wales, or for the county of the city of London, as an esquire or person of higher degree, or as a banker or merchant, shall be qualified and liable to serve on special juries in every such county in England and Wales and in London respectively, and the sheriff of every county in England and Wales, or his undersheriff, and the sheriffs of London, or their secondary, shall, within ten days after the delivery of the jurors' book for the current year to either of them, take from such book the names of all men who shall be described therein as esquires or persons of higher degree, or as bankers or merchants, and

shall respectively cause the names of all such men to be fairly and truly copied out in alphabetical order, together with their respective places of abode and additions, in a separate list to be subjoined to the jurors' books, which list shall be called 'the Special Jurors' List.'" Sect. 35 provides, "that no juror who shall serve upon any special jury shall be allowed to take, for serving on any such jury, more than such sum of money as the judge who tries the issue shall think just and reasonable, and which shall not exceed the sum of 1*l.* 1*s.*, except in cases wherein a view is directed."

In reference to this statute, the Common-law Commissioners, in their Second Report, observe—"While we are prepared to maintain trial by jury in all cases where facts of a more complicated nature are to be dealt with, we are not blind to the fact that in many instances juries are not so constituted as to insure such an average amount of intelligence as might be desired. A jury of London or Liverpool merchants may be, as we believe them to be, an excellent tribunal to try a commercial cause; or a jury of country gentlemen to try a question relating to a watercourse, or the boundaries of an estate; but it must be admitted that in the agricultural districts the common juries are sometimes composed of a class of persons whose intelligence by no means qualifies them for the due discharge of judicial functions. Such persons are unaccustomed to severe intellectual exercises, or to protracted thought, and, used to an active out-door life and employment, when shut up for hours in a jury-box, bewildered by law terms, by conflicting evidence, and the disputations of contending advocates, who appeal to their prejudices, sometimes pronounce verdicts which bring the institution of juries into disrepute. We are of opinion that the standard of qualification of jurymen in the country, which is at present as low as a rating on a value of 20*l.*, should be raised; and further, that on every trial there should be an admixture of jurymen of the class from which the special juries are now taken. This is, indeed, now the law, though, in practice, the names of persons qualified to be special jurors are not placed on the common jury panel. There is every reason why jurors of the higher class should assist in the administration of justice to the same extent as those who constitute the common juries. We think the higher class of jurors should bring the assistance of their more cultivated minds and superior intelligence to the decision of cases which, though they may not admit of the general expense attendant under the present system on having a special jury, may not be the less important to the parties whose interests are involved. At the same time, it should be understood that we do not propose to abolish the right which now exists of having a special jury as at present appointed. What we recommend is, that the general jury panel should be made up indiscriminately from all persons qualified to serve on either jury." And in their Third Report—"We think it right to avail ourselves of this opportunity to invite renewed attention to our former observations respecting the constitution of juries. More especially we would urge the consideration of that part of our recommendations which relates to securing the attendance on common juries of the class of persons who now serve exclusively on special juries, with a view to the improvement of the former by the admixture of persons of higher education and intelligence. We are strongly persuaded that a very great improvement would by this means be effected in the constitution of juries; and as we do not propose to do away with the right of parties to resort to a special jury, or to deprive special jurors, when serving as such, of the additional remuneration which they are in the habit of receiving, we can see no ground why the liability of such persons to serve on common juries, which already exists in law, though it is not so required in practice,

should not be enforced." And in a recent case before the Court of Common Pleas, the Lord Chief Justice, in answer to a special jurymen, who complained of being kept waiting, is reported to have said—"I may tell you, sir, that the distinction between common and special jurors will shortly be done away with, and, instead of being summoned for certain cases, you will have to attend from the beginning of the sittings to the end."

The question raised by the Common-law Commissioners—whether the existing course of taking common jurors from the general jury list, minus the names of those liable to serve on special juries, is or is not imposed by law, or is a mere practice introduced by the undersheriffs, in disregard or in ignorance of it—could easily be put right by a few words in a declaratory statute. But their suggestion, to raise the qualification of jurors in general, is a more important matter, and involves many grave considerations. As regards criminal trials, we certainly should protest against it, as a departure from the well-known principle of our Constitution, that every man ought to be tried by his peers. If a man's guilt is so recondite that it cannot be made manifest to twelve humble individuals, who are usually of a class in society not much above that of the accused, his conviction is unsafe and unconstitutional. It would, indeed, be strange if the juries summoned in times past were sufficient both to satisfy the above great principle and to do justice in those times, while at the present day, when the general standards of intelligence and education are so much higher, the qualification of jurors were raised on the ground of incapacity on the part of the same class of society to understand judicial proceedings. These observations apply also to civil cases, though in an inferior degree.

But grievous complaints of another kind have been brought against the officers charged with the jury lists—that through corruption or partiality they refrain from summoning favoured individuals, and summon with undue frequency others who are disfavoured. This complaint has been frequently made, sometimes with reason, sometimes without. As a recent instance, and a fair illustration, we subjoin the following letter very recently addressed to one of the daily papers, with the paper's comment upon it\* :—

"City, Dec. 20.

"Sir,—I am one of those unfortunates who are continually being summoned on special juries, and, considering the large number of jurors in the city of London, I think that some unfair means must be resorted to, either in the drawing of the names or by bribery. At any rate it is not just that a man should be taken out of his business too frequently for such a purpose. At the last sittings at Guildhall I was summoned on three or four different cases.

"I would suggest, as a remedy, that if you are summoned more than once in twelve months, you may claim exemption if you think proper, as there are a great many 'guinea pigs' that in all probability would not claim exemption.

"As a few lines in your journal may cause some reform, I shall feel obliged if you will give this a corner in *The Times*.

"I am, Sir, your most obedient servant,

"A SPECIAL."

On this the conductor of the paper, to whom the writer is apparently known, says, "A Special' may, with more probability, attribute the fact of his being frequently summoned to his peculiarly accurate knowledge of the mercantile usages of the city of London, and the known impartiality of his decisions in the jury-

box, than the favouritism and bribery suggested by him."

If the Legislature take in hand the subject of juries, we hope that they will not overlook the constitution of the metropolitan grand juries. Some of the arguments used by those who have recently endeavoured, we rejoice to say unsuccessfully, to abolish the grand jury in the metropolis, with, there is every reason to believe, the ultimate object of finally sweeping away altogether this ancient and valuable institution, could be effectually silenced by a judicious reform in the constitution of those juries.

The subject of the payment of jurors is likewise well deserving attention, but we have already exceeded our limits.

### Review.

*A Treatise on the Principles of Pleading in Civil Actions; comprising a Summary Account of the whole Proceedings in a Suit at Law: being the Sixth Edition of Mr. Serjeant Stephen's Work under that Title, with Alterations adapting it to the present System. By JAMES STEPHEN and FRANCIS F. PINDER, Barristers-at-Law.*

[London: V. & R. Stevens & Sons; H. Sweet; and W. Maxwell. 1860.]

THIS work comes before the Profession as a new edition of one of the classics of English law. The merits of Serjeant Stephen's *Treatise on Pleading* are generally acknowledged; but, in order to understand their full value, it is necessary to bear in mind the state of law and pleading at the time when the original edition appeared in 1824. The old system was then in its full glory—the law of England was effectually overlaid by a complicated, unmeaning, and absurd procedure; our system of pleading—partly from defects inherent in its original constitution, partly from departures from its principles in more modern times, but principally from the manner in which the whole was worked in practice—had reached a state, not merely inimical to justice, but disgraceful to the jurisprudence of any nation, civilised or barbarous. Nor was even this all. Pleading was so entangled with the law as really to form part of it, and, indeed, seemed in the eyes of pleaders, if not of the Bar and Bench also, to be the more worthy object of attention; in other words, pleading, instead of being, as it unquestionably is, a handmaid to the law in determining the rights of parties, was viewed as a principal, to which the substantive rules of law were merely accessories. To estimate the amount of injustice worked and absurdity perpetrated under our old system of pleading and procedure would be a most painful, were it a possible, task; but the then existing race of practitioners clung to it with as much tenacity as if they thought the entire jurisprudence of the land dependent on its preservation down to the minutest particular. Associated with all this was another evil, to a certain extent the consequence of the former, namely, the fearful deterioration of our legal literature—the legal works of that period being written in the most loose and careless manner, in utter disregard of style, and not unfrequently of grammar also. But under all this absurd and mischievous rubbish there lay, though imperceptible to ordinary vision, a noble and beautiful science, which Serjeant Stephen had the merit of digging out. Disregarding the prejudices of his day, he acted in the spirit of the motto which is prefixed to the fifth edition of his work—

"Res antiquæ laudis et artis  
Ingredior, sanctos ausus recludere fontes."

He traced the original rules of pleading to a few elementary principles of the most simple and rational

\* *The Times*, Dec. 22, 1860.



kind, evidently established by able minds after mature consideration, and admirably adapted to attain the objects of the law, namely, the extricating the real facts in dispute by the mutual allegations of the contending parties, instead of leaving them to be gathered by the tribunal from loose allegations propounded at large; the securing that the issue thus extracted should be alike material, single, and certain; and the whole without obscurity or confusion, prolixity or delay. It is true, that even in the ancient pleading there were many disgraceful subtleties, but by far the greatest evils of our system of pleading were introduced in much later times, and were for the most part clearly traceable to the losing sight of the fundamental principles of the science. Serjeant Stephen concluded his work by offering some suggestions for amending the science of pleading, although these were scarcely needed by any person who had carefully perused his work, for the very beauty of the original system brought out, by contrast, the vices of the existing one in all their hideous and disgusting deformity. As might naturally be expected, the work of Serjeant Stephen not only commanded the admiration of every enlightened lawyer, but became the elementary work for students, and, there is every reason to believe, had a large share in attracting the attention of the Legislature to the fearful state of the existing system, and the imperative necessity for its reformation.

The reforms suggested by Serjeant Stephen, together with many others, have been carried into effect by the Reg. Gen., Hil. T., 4 Will. 4, (repealed and remodelled by the Reg. Gen., Trin. T., 1853), the Common-law Procedure Acts, 15 & 16 Vict. c. 76, and 17 & 18 Vict. c. 126, and other enactments, much to the improvement of our judicial system. But these alterations clearly established the necessity either of fresh treatises on the subject of pleading, or new editions of the existing works adapted to the altered state of things. The Treatise before us accordingly professes to modernise the celebrated work of Serjeant Stephen; and it only remains to inquire into the manner in which its editors, Mr. James Stephen and Mr. Francis F. Pinder—the former already favourably known to the Profession as editor of the last edition of Stephen's Commentaries, and also of the last edition of Lush's Practice—have executed their task.

We think we have at the outset some cause to complain of a discrepancy between the title-page and the preface of the work. According to the former, it is "A Treatise on the Principles of Pleading in Civil Actions," &c., "*being the Sixth Edition of Mr. Serjeant Stephen's Work under that Title, with Alterations adapting it to the present System.*" In the Preface, however, it is described as follows:—

"The fifth and last edition of Mr. Serjeant Stephen's well-known Treatise on the Principles of Pleading in Civil Actions was published in the year 1843—a time when a stricter system of pleading than at present in use prevailed, and while it still comprised some ingenious but unnecessary subtleties.

"Important reforms in pleading, however, were effected by the Common-law Procedure Act, 1852; and as a sufficient period has since elapsed to allow of the complete development of the improved system then introduced, the present time appeared to be proper for again laying before the Profession a work on the Principles of Pleading. The question then arose, as to what extent, if any, Mr. Serjeant Stephen's Treatise could be made available for this purpose. A new edition of that work, of the ordinary kind, seemed wholly insufficient to meet the requirements of the case, for the changes which had been made were so extensive as not to admit of satisfactory treatment by means of notes, or by slight alterations of the text. Instead, therefore, of attempting what we felt would prove a failure, we have chosen what seemed to us the more satisfactory

course of presenting to the Profession *a Treatise on the Principles of Pleading, for which, as a whole, we ourselves are alone responsible, though it is published in the form of a sixth edition of Mr. Serjeant Stephen's work.* In carrying out our design we have not confined ourselves to the task of leaving out such parts of the original work as seemed inapplicable to the existing system, and adding new enactments and cases; but we have endeavoured to correct some inaccuracies which had crept into the later editions, and have also made such other alterations as appeared to us to be necessary; yet large portions of the original work have been preserved entire; and wherever a passage has been retained, it has been given, as far as possible, in Mr. Serjeant Stephen's own words, the authorship being in each instance distinguished by a system of brackets, explained in a notice subjoined to this Preface.

"With regard to the Appendix, some of the notes of the original Treatise have been omitted, as being on subjects to which little or no interest now attaches, or with regard to which fuller information can be now obtained in works of a more modern date. Such of the notes, however, as have been retained, are given, in general, without alteration."

The reader is thus left in doubt whether the work upon which he is about to enter is a new edition of Serjeant Stephen's most valuable book, or a new work by two other authors. On examination, the truth will be found to be, that the present work is an attempt to adapt Stephen on Pleading to the state of practice at the present day—to which it bears much the same relation as Stephen's Commentaries bears to Blackstone's Commentaries, and Taylor on Evidence bears to Professor Greenleaf's work on the same subject.

Viewing, then, in this light the work before us, we shall find that, as a whole, it has been ably executed, and certainly evinces a very industrious research by the editors into the modern statutes and authorities. Even the recent Common-law Procedure Act, 1880, (23 & 24 Vict. c. 126), which was passed so recently as the 28th of August in the present year, is frequently cited; and so early in the work, that we think it probable some corrected proof was cancelled to procure its admission. Thus far we can speak favourably of this Treatise, and make no doubt it will long be used by students as the text-book on Pleading.

We proceed, however, to notice what seem to us the weak parts of it. In the first place, then, the great changes in our procedure effected by the Regular Generals of the judges, and the Common-law Procedure Acts and other modern statutes, have given rise to the notion in many minds that pleading is now either an useless or insignificant appendage to our jurisprudence. This is, perhaps, only a natural reaction from the undue importance formerly attached to it; but the notion that the science and practice of pleading can ever cease to occupy an important place in the administration of the law is alike idle and mischievous, and most perilous to any practitioner who should be so rash as to adopt it. It is true, that the ignorant or unskilful pleader need no longer be alarmed by the terrors of a special demurrer; but the ignorance or unskilfulness of his pleading may be exposed before the court or a judge at chambers, to the injury of the reputation of the pleader, and the mulcting his client in costs; or his pleading may be found defective at the trial, in such a manner as to require amendments which the judge has not power to make, or, in the exercise of a sound discretion, refuses to make; and which, even if made, will entail costs upon the client. Moreover, it is a great mistake to imagine, that because great and beneficial reforms have been effected in our system of pleading, the whole or even the chief part of its *principles* are altered; on the contrary, most of the sound ones involved in it have

been retained, and their value rendered all the more conspicuous by the strong contrast they present to the unsound ones that have been abolished. If this be so, it follows, that in order to understand pleading, (or indeed any other branch of law), the student or practitioner must first become acquainted with the old system before he can understand the full effect and advantage of the new. Now, it appears to us that the editors of the present work, acting, as it would seem, under the erroneous notions to which we have alluded, have sacrificed too much of the original text and notes of Serjeant Stephen, and have taken too little pains to shew the connexion between the old and the new law—to point out the rise and nature of the abuses under the former, and of the alterations to remedy them that have been made by the latter. This could have been done without unduly enlarging the work, for it is actually reduced in size from the previous edition, which exceeds it in bulk by about one-fourth.

Again: one of the most conspicuous vices of the legal literature of our times is the improper employment of notes. Their legitimate use is to confirm and illustrate the text—not to qualify or contradict it, or to refer to authorities or statutes having that effect; and the employing them for these purposes is a conclusive proof that the author has not got his subject in hand. Such is, however, the constant habit of our law writers; and objectionable as that habit is in ordinary works, or even in works of practice, it is insufferable in works of an elementary or institutional character, to which class the present Treatise most obviously belongs. We do not say that Mr. Stephen and Mr. Pinder offend much in this respect, but they are not quite emancipated from the practice.

Having made these general observations, we proceed to direct attention to two places in this work where the editors have, as we think unwisely, altered the text of Serjeant Stephen. First, as has been already mentioned, the great objects of the rules of pleading, as stated by that author, are, to secure—

1. The production of an issue.
2. The singleness of the issue.
3. The materiality of the issue.
4. The certainty of the issue.

The editors have preserved all these except the second, which they have erased, and instead of it have inserted, but fourth instead of second in order, a head intitled "Rules which tend to prevent duplicity in pleading."

The design of the common-law rule which required the issue to be single was to prevent more than one question being presented to the mind of the tribunal, whether court or jury; and with this view it not only prohibited several distinct pleadings to the same cause of action or defence, but required each individual pleading to be single in itself. Now, the objectionable part of this rule was the former; and it was the habit of the old pleaders to endeavour to evade it, by crowding, as they best could, various distinct matters into one pleading. The statutes allowing several pleadings have, to a considerable extent, although not entirely, abolished that part of the rule; but the second branch, prohibiting doubleness in each particular pleading, is as much in force as ever.

Secondly, we believe that the subject of "negatives pregnant," is not noticed in this work—it is certainly not to be found in the Index, or in its natural place, under the head of "ambiguity in pleadings." The rule prohibiting it still exists, and is a very salutary one; for the resorting to negatives pregnant is one of the natural resources of dishonesty and evasion.

The importance of the subject, and the high and deserved reputation of Serjeant Stephen's Treatise on Pleading, have induced us to extend this review beyond our usual limits.

JOHN BOUND, Hay, Breconshire, draper, Jan. 15 and Feb. 12 at 11, Bristol: Off. Ass. Acraman; Sols. Cheese, Hay, Breconshire; Brittan & Sons, Bristol.—Pet. f. Dec. 22.

MATTHIAS WOOD, Barnsley, Yorkshire, plumber, Jan. 14 and Feb. 4 at 11, Leeds: Off. Ass. Hope; Sols. Carlas & Cudworth, Leeds; Barratt, Wakefield.—Pet. d. Dec. 23.

JOHN DEMPSEY, Hooley-hill, Audenshaw, Lancashire, grocer, Jan. 10 and 31 at 12, Manchester: Off. Ass. Pott; Sol. Reddish, Manchester.—Pet. f. Dec. 20.

#### MEETINGS.

*George Ritchie*, Newcastle-upon-Tyne, grocer, Jan. 8 at 11, Newcastle-upon-Tyne, last ex.—*Robert Stewart*, Wells, Somersetshire, draper, Jan. 17 at 11, Bristol, aud. ac.—*George Wilkinson*, Durham, grocer, Jan. 11 at 12, Newcastle-upon-Tyne, aud. ac.; Jan. 16 at half-past 12, div.—*Wm. Foster*, Birmingham, timber merchant, Feb. 7 at 11, Birmingham, aud. ac.—*G. L. Schembri*, Leadenhall-street, City, merchant, Jan. 18 at 11, London, div.—*Jonathan Hills* and *Robert Hills*, Gravesend and Dartford, Kent, bankers, Jan. 15 at half-past 12, London, div. joint and sep. ests.—*Edward Shevington* and *James John Clutterbuck*, Russell-street, Bermondsey, Surrey, leather dressers, Jan. 15 at 1, London, div.—*John Vokins* and *Wm. Hurd*, Jubilee-place, Chelsea, Middlesex, horticultural builders, Jan. 18 at 12, London, div.—*George E. Arnsby*, Earl's Barton, Northamptonshire, shoe manufacturer, Jan. 16 at 12, London, div.—*Wm. Tingey*, Tottenham-court-road, warehouseman, Richmond, Surrey, and Portland-terrace, Notting-hill, Middlesex, baker, Jan. 18 at half-past 12, London, div.—*Mark Warren*, Shoreditch, Middlesex, haberdasher, Jan. 18 at 11, London, div.—*Wm. Pearson*, East Bergholt, Suffolk, market gardener, Jan. 18 at half-past 11, London, div.—*George C. Moulton*, Brunswick-square, Bloomsbury, Middlesex, dealer in India rubber, Jan. 16 at half-past 12, London, div.—*Chas. Spikins*, Duke-street, Portland-place, Middlesex, bottled beer merchant, Jan. 18 at 11, London, div.—*John Miller*, Nottingham, pawnbroker, Jan. 17 at 11, Nottingham, aud. ac. and div.

#### CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*Frank Adams*, Chancellor's-wharf, Hammersmith, Middlesex, lighterman, Jan. 16 at 2, London.—*Benj. Reynolds*, Hoxton Old-town, Middlesex, cheesemonger, Jan. 16 at 1, London.—*James Josiah Stephenson*, Crawford-street, Bryanstone-square, St. Marylebone, Middlesex, cabinet maker, Jan. 16 at half-past 2, London.—*Richard Buttle*, Long-acre, Middlesex, tailor, Jan. 18 at 12, London.—*Mark Fothergill*, Upper Thames-street, City, chemical manure merchant, Jan. 18 at 1, London.—*Wm. Cooper*, Cheriton, near Alesford, Sonthampton, builder, Jan. 18 at 12, London.—*R. H. Courtis*, Aberavon, Glamorganshire, grocer, Jan. 29 at 11, Bristol.—*Charles William Bourne*, Dudley, Worcestershire, corn factor, Jan. 24 at 11, Birmingham.—*Thomas Colman*, Coventry, Warwickshire, plumber, Jan. 24 at 11, Birmingham.—*Thomas Bennett* and *Edward Williams*, Tipton, Staffordshire, ironmasters, Jan. 25 at 11, Birmingham.—*John Hughes*, Birmingham, wire drawer, Jan. 24 at 11, Birmingham.—*James Phillips*, Church Stretton, Shropshire, chemist, Jan. 25 at 11, Birmingham.—*Thomas Nixon*, Stoke-upon-Trent, Staffordshire, shoemaker, Jan. 25 at 11, Birmingham.—*Thomas Linley*, Beverley, Yorkshire, grocer, Jan. 23 at 12, Kingston-upon-Hull.—*George Robinson*, Lincoln, hotel keeper, Jan. 23 at 12, Kingston-upon-Hull.—*Edward Toynbee*, Lincoln, agricultural merchant, Feb. 20 at 12, Kingston-upon-Hull.—*James Wells*, Liverpool, toy dealer, Jan. 16 at 12, Liverpool.—*Frederick Randall*, Whitechapel-road, Middlesex, coach builder, Jan. 18 at 1, London.—*Robert Stewart*, Wells, Somersetshire, draper, Jan. 21 at 11, Bristol.

*To be granted, unless an Appeal be duly entered.*

*Nathan Benjamin* and *Edwin Dipple*, New-cut, Lambeth, Surrey, gas fitters.—*Robert Okeer*, Wilmington-street, Wilmington-square, Clerkenwell, Middlesex, manufacturing jeweller.—*Charles Pritchard*, East-place, Walcot-place, Lambeth, Surrey, plumber.—*Henry Oppenheim*, Old-street-road, St. Luke's, and Dalston-place, Dalston, Middlesex, timber merchant.—*Eliza Packer*, High-street, Aldgate, City, shoemaker.—*John James Rolls*, Cerne Abbas, Dorsetshire, grocer.—*John Barber*, Manchester, machine maker.



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See Law List, 1860, pages 826 and 827.

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ESTABLISHED 1824.

EMPOWERED BY SPECIAL ACT OF PARLIAMENT.

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The Directors have much satisfaction in presenting a favourable Report of the progress of the Society during the year ending the 30th June, 1860.

This year has been distinguished by the fact, that a larger amount of New Assurances has been effected than in any corresponding period.

During the twelve months 572 Policies were issued, for an aggregate sum of 324,575*l.*, and yielding 10,179*l.* in New Annual Premiums.

The Gross Income has increased in the same time from 179,119*l.* to 185,928*l.*, and the Assurance Fund from 1,255,531*l.* to 1,330,631*l.*. Thus, after the payment of all claims and expenses, the Accumulated Fund has received an augmentation of 75,090*l.*, a sum exceeding by 10,300*l.* the surplus of the previous year.

By the lamented death of the late Duke of Richmond the office of President of the Society, which his Grace had filled during a period of twenty-four years, became vacant. Whilst greatly regretting the severance of a connexion of such long standing, the Directors have the gratification of announcing that his Grace the Archbishop of York, previously a Vice-President, and who has been closely connected with the Society for a period of thirty-five years, has honoured the Society by accepting the office of President. The Directors have also the pleasure to state that the Duke of Marlborough has allowed his name to be added to the list of Vice-Presidents of the Institution.

The Directors desire, in conclusion, to observe, that all persons who shall have completed Policies on the Participating Scale before the 30th June, 1861, will share in the Bonus to be declared in January, 1862. This early participation in the Profits offers such advantages to new Assurers, that the Directors are unwilling to close their Report without inviting attention to the announcement.

The following are some of the distinctive features of the Society:—One-half of the Annual Premiums on Policies for the whole Life may for the first five years remain on credit, and may either continue as a debt on the Policy, or be paid off at any time.

Policies for TERMS of YEARS may be effected at rates peculiarly favourable to Assurers.

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See Law List, 1860, pages 826 and 827.

Z Z

## GAZETTES.—FRIDAY, Dec. 28.

## BANKRUPTS.

JOHN PALMER, Mutley, near Plymouth, Devonshire, picture dealer, Jan. 10 at 2, and Feb. 8 at 11, London: Off. Ass. Bell; Sols. Wilde & Co., 21, College-hill, City.—Pet. f. Dec. 17.

MARK HAYES, New Brentford, Middlesex, cheesemonger, Jan. 9 at half-past 1, and Feb. 11 at 12, London: Off. Ass. Pénriell; Sols. J. & J. H. Linklater & Co., 7, Walbrook, City.—Pet. f. Dec. 22.

WILLIAM TUGWELL FENNELL, Brighton, Sussex, hatter, Jan. 9 at half-past 2, and Feb. 8 at 12, London: Off. Ass. Graham; Sols. Lamb, Brighton; J. & J. H. Linklater & Co., 7, Walbrook, City.—Pet. f. Dec. 26.

WILLIAM COX, Birmingham, grocer, Jan. 10 and Feb. 7 at 11, Birmingham: Off. Ass. Whitmore; Sol. Marshall, Birmingham.—Pet. d. Dec. 27.

HENRY WATSON, Longford, Derbyshire, miller, Jan. 10 and 31 at 11, Nottingham: Off. Ass. Harris; Sol. Tomlinson, Ashborne.—Pet. d. Dec. 27.

ISABELLA LILIAS MARY HARRIS, widow, Liverpool, hosier, Jan. 7 and 28 at 11, Liverpool: Off. Ass. Morgan; Sols. Lowndes & Co., Liverpool.—Pet. f. Dec. 24.

NOAH MILLER, Sidmouth, Devonshire, builder, Jan. 16 and Feb. 13 at 12, Exeter: Off. Ass. Hirtzel; Sol. Clarke, Exeter.—Pet. f. Dec. 19.

## MEETINGS.

*Edward Lewis*, Coleman-street, City, lithographer, Jan. 9 at half-past 11, London, last ex.—*Wm. Sharp* the younger, New Broad-street, City, underwriter, Jan. 10 at 11, London, last ex.—*Septimus Frederick Martyn*, Dowgate-hill, City, wholesale shoe warehouseman, Jan. 10 at 11, London, aud. ac.—*Frederick Caplin*, Drury-lane, Middlesex, hosier, Jan. 11 at half-past 12, London, aud. ac.—*Charles Dwelly*, Clarendon-terrace, Bow-road, Middlesex, wheelwright, Jan. 3 at 11, London, aud. ac.—*James Kelita Hardy*, Fenchurch-street, City, blue manufacturer, Jan. 10 at 12, London, aud. ac.—*Robert Stevens*, Ipswich, Suffolk, innkeeper, Jan. 3 at 2, London, aud. ac.—*Joseph Hollings*, Charles-street, Hampstead-road, Middlesex, cowkeeper, Jan. 10 at 2, London, aud. ac.—*Walter Baynham*, Hounslow, Middlesex, grocer, Jan. 3 at half-past 11, London, aud. ac.—*Charles Underwood*, James-street, Covent-garden; Drury-lane; and Long-acre, Middlesex, grocer, Jan. 10 at half-past 1, London, aud. ac.—*Jonathan Hills* and *Robert Hills*, Gravesend and Dartford, Kent, bakers, Jan. 9 at half-past 1, London, aud. ac. sep. ests.—*Edward Shevington* and *James John Clutterbuck*, Russell-street, Bermondsey, Surrey, leather dressers, Jan. 9 at 2, London, aud. ac.—*Robert Lee*, Cromford, Derbyshire, currier, Jan. 10 at 11, Nottingham, aud. ac.—*Samuel Attack*, Leeds, Yorkshire, builder, Jan. 10 at 11, Leeds, aud. ac.—*J. Skinner*, Northampton, shoe manufacturer, Jan. 17 at half-past 11, London, div.—*T. Manning*, Aldershot, Southampton, hotel keeper, Jan. 18 at 1, London, div.—*Wm. Smith* and *W. F. Patient*, Bermondsey New-road, Surrey, tanners, Jan. 18 at 11, London, div.—*Henry Keyte*, Church-court, Old Jewry, City, silk manufacturer, Jan. 21 at 1, London, fin. div.—*Thomas Horner*, Hart-street, Bloomsbury, Middlesex, house decorator, Jan. 21 at half-past 11, London, div.—*Leopold Redpath*, Chester-terrace, Regent's-park, and Great Northern Railway Company's Offices, King's-cross, Middlesex, dealer in shares, Jan. 21 at 11, London, div.—*W. Wilson*, Thirsk and Northallerton, Yorkshire, currier, Jan. 18 at 11, Leeds, div.—*Marshall Thomas Stacey*, Leeds, Yorkshire, dealer in tea, Jan. 18 at 11, Leeds, div.—*H. Mabson*, Ecclesfield, Yorkshire, butcher, Jan. 19 at 10, Sheffield, div.

## CERTIFICATES.

*To be allowed, unless Cause be shown to the contrary on or before the Day of Meeting.*

*Charles Barrow* the younger, Coleman-street, City, wine merchant, Jan. 18 at 1, London.—*Thomas George Wicks*, Beckford-row, Walworth, linen-draper, Jan. 18 at half-past 1, London.—*John Skinner*, Northampton, shoe manufacturer, Jan. 17 at half-past 11, London.—*W. Napier*, Union-wharf, Wapping-wall, Middlesex, coal merchant, Jan. 17 at 11,

London.—*John Arnold Hurst*, Ludgate-street, City, mantle manufacturer, Jan. 22 at 1, London.—*George Henry Chase*, Oxford-street, St. Marylebone, Middlesex, shoemaker, Jan. 18 at half-past 2, London.—*John Surman*, Southampton, tailor, Jan. 18 at 2, London.—*John Muir*, Kingston-upon-Hull, draper.—*William Phillips* the younger, Birmingham, pork butcher.—*George Taylor*, West Bromwich, Staffordshire, timber merchant.

*To be granted, unless an Appeal be duly entered.*

*James Collins*, Oxford, paper maker.

## PETITIONS ANNULLED.

*William Burgess*, Cambridge-street, Pimlico, Middlesex, dealer in candles.—*Edward Barons Bowman*, Archerfield House, Highbury New Park, Islington, and Alma-villas, Dalston, Middlesex, apothecary.—*William Thomas*, Cardiff, Glamorganshire, publican.—*John Johnson*, *Richard Clark*, son, and *Frederick Furness*, Ashton-under-Lyne, Lancashire-tailors.—*Richard Andrews*, Morning-lane, Homerton, Middlesex, beer retailer.

## PARTNERSHIP DISSOLVED.

*Alfred Walter* and *Samuel Balden* the younger, Birmingham, attorneys and solicitors, (under the style or firm of *Walter & Balden*).

## SCOTCH SEQUESTRATIONS.

*Elizabeth Winning*, or *M'Farlane*, Balmora, Baldernock, Strirlingshire, grocer.—*Andrew Peddie*, Shettleston, near Glasgow, smith.—*Alexander Leask & Son*, Blairgowrie and Dundee, flax spinners.—*Rankin & Gray*, Glasgow, carvers and gilders.—*James Johnson*, deceased, Gallowgate, Glasgow, grocer.—*Frederick James Glendonwynn*, deceased, Parson House, Kirkcudbright, doctor of medicine.—*Henry G. Millar*, Greenock, grocer.—*Robert Wigham*, or *Whigham*, Edinburgh, draper.—*Anthony Thomson*, jun., Poundland, Colmonell, Ayrshire, farmer.—*James King*, Houston, Renfrewshire, builder.—*William Connell*, Edinburgh, coach builder.—*David Strathie*, Ayr, draper.—*John Fyfe*, Port Glasgow, wright.

## TUESDAY, Jan. 1.

## BANKRUPTS.

WILLIAM BRYANT, Oxford-street, Middlesex, tailor, Jan. 11 at half-past 11, and Feb. 8 at 12, London: Off. Ass. Cannan; Sols. Huson & Parker, 4, King-street, Cheapside.—Pet. f. Dec. 28.

AARON MARTIN CRAMP HODGMAN, Broadstairs, Isle of Thanet, Kent, miller, Jan. 11 and Feb. 15 at 2, London: Off. Ass. Whitmore; Sols. Mercer & Edwards, Ramsgate; Mercer, 8, Billiter-square, London.—Pet. f. Dec. 31.

WILLIAM GROVE, Kingsland-road, Middlesex, licensed victualler, Jan. 11 and Feb. 13 at 12, London: Off. Ass. Graham.—Pet. f. Dec. 28.

THOMAS EDGE, Great Peter-street, Vincent-square, Westminster, Middlesex, gas-meter manufacturer, Jan. 15 and Feb. 13 at 1, London: Off. Ass. Stansfeld; Sol. Skilbeck, 19, Southampton-buildings, London.—Pet. f. Dec. 18.

WILLIAM BRENT, Blue Anchor-road, and Wilbourn-terrace, Grange-road, Bermondsey, Surrey, tanner, Jan. 15 at half-past 12, and Feb. 13 at half-past 1, London: Off. Ass. Stansfeld; Sol. Roberts, 8, Barge-yard-chambers, Bucklersbury, London.—Pet. f. Dec. 31.

GEORGE WILLIAM KENRICK, Paragon-road, Church-street, Hackney, Middlesex, livery-stable keeper, Jan. 10 at 12, and Feb. 11 at 1, London: Off. Ass. Pennell; Sols. Pulley & Clarke, High Wycombe; Greville & Tucker, St. Swithin's-lane, London.—Pet. f. Dec. 28.

ALFRED BROOKS, Ludgate-street, City, optician, Jan. 12 and Feb. 16 at 12, London: Off. Ass. Edwards; Sols. Lumley & Lumley, 41, Ludgate-hill, London.—Pet. f. Dec. 28.

OWEN HEWITT, Windsor, Berkshire, baker, Jan. 12 at 1, and Feb. 19 at 12, London: Off. Ass. Lee; Sols. Harrison & Lewis, 6, Old Jewry, London.—Pet. f. Dec. 27.

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THE JURIST.

LONDON, JANUARY 5, 1861.

As a general rule, by the law of England a surety paying off a debt was always entitled to the benefit of the securities which the creditor may have taken from the principal debtor. There was, however, a very material exception to the rule in those cases where the security itself was extinguished by the act of payment, for then, in fact, there remained nothing to assign to the surety who paid the debt. Where, for instance, a surety paid a bond debt, he could not have required an assignment of the bond, because by the act of payment he extinguished the bond; the consequence was, that he was not a creditor by specialty, but merely by simple contract. (See *Copis v. Middleton*, Turn. & R. 229; *Hodgson v. Shaw*, 3 My. & K. 190; and *Jones v. Davids*, 4 Russ. 277).

The same principle was also held applicable to judgment debts. Thus, in *Armitage v. Baldwin*, (5 Beav. 278), a creditor sued his principal debtor, and recovered a judgment against him and the bail in the action. The surety thereupon "paid and satisfied to the creditor" the amount of the judgment, with interest and costs, and took an assignment thereof. Lord Langdale, M. R., held that the judgment was discharged, and that the

surety could not recover on the judgment against the bail.

According to the law of Scotland, the surety could always call on the creditor for a surrender or assignment of all securities for the debt, the rule not being there subject to the qualification or exception in the English law exemplified in the cases of *Copis v. Middleton*, *Hodgson v. Shaw*, and *Armitage v. Baldwin*. The difference between the English and Scotch law upon this subject was considered by the Mercantile Commission in their Second Report, 1855, (p. 13), and they thought, very justly, that the equity and propriety of the Scottish rule were obvious, inasmuch as the surety by it obtained much aid in operating his relief from the hardship of having been compelled to pay another party's debt, and yet no detriment was thereby inflicted on any other party.

In consequence of the recommendation of the commissioners, the law of England was assimilated to that of Scotland, as to the right of a surety or co-debtor to have, without any exception, an assignment from the creditor of all securities on payment of the debt.

This recommendation was carried into effect by the Mercantile-law Amendment Act, 19 & 20 Vict. c. 97, s. 5, which enacts, that "every person who, being surety for the debt or duty of another, or being liable with another for any debt or duty, shall pay such debt or perform such duty, shall be entitled to

have assigned to him, or to a trustee for him, every judgment, specialty, or other security which shall be held by the creditor in respect of such debt or duty, whether such judgment, specialty, or other security shall or shall not be deemed at law to have been satisfied by the payment of the debt or performance of the duty; and such person shall be entitled to stand in the place of the creditor, and to use all the remedies, and, if need be, and upon a proper indemnity, to use the name of the creditor in any action or other proceeding, at law or in equity, in order to obtain from the principal debtor, or any co-surety, co-contractor, or co-debtor, as the case may be, indemnification for the advances made and loss sustained by the person who shall have so paid such debt or performed such duty; and such payment or performance so made by such surety shall not be pleadable in bar of any such action or other proceeding by him: provided always, that no co-surety, co-contractor, or co-debtor shall be entitled to recover from any other co-surety, co-contractor, or co-debtor, by the means aforesaid, more than the just proportion to which, as between those parties themselves, such last-mentioned person shall be justly liable."

A case has lately been determined in the Common Pleas upon the construction of this section, in which we think the Court arrived at a conclusion entirely in accordance with the spirit in which the act was framed. The case to which we allude is *Batchellor v. Lawrence*, (6 Jur., N. S., part 1, p. 1306). There a co-debtor, having been taken in execution on a judgment recovered against himself and others, paid the entire debt. It was held that he was entitled, under the Mercantile-law Amendment Act, sect. 5, to have an assignment of the judgment. It was, indeed, argued by the counsel for the defendant in the action, first, that the judgment was not within the act of Parliament, because it was not held as a collateral security by the creditor, and that as the plaintiff had paid the debt, and satisfied the judgment, it was no longer a security at all; and, secondly, that, assuming the judgment to be within the act, the action did not lie, inasmuch as the judgment, if assigned, would be useless to every one, and could be of no use or advantage to the plaintiff. The Court, however, did not agree with this argument. With regard to the first branch of it, Williams, J., in giving judgment, said that he thought the judgment was within the ordinary and grammatical meaning of the words used in the statute, but that it also seemed to have been the object of the Legislature to enact that the fact of the satisfaction of the judgment should not avail as an answer after it should have been assigned under the 5th section; that there seemed to be no reason to doubt that the statute intended that a person who had been a surety for others, or a person whom the statute regards as in the nature of a co-surety, should have the full benefit of an assignment over to him, from the creditor, of the judgment, in order that he might be in a better position, than he could heretofore have been in, to enforce payment of such part of the debt as remained due from the co-debtors. As to the second point urged on the part of the defendant, that the judgment would be useless if it were assigned, because there would be a plea in bar to any action upon it by reason of the previous proceedings—the taking in execution and paying off the debt—the learned judge said that he agreed with Erle, C. J., that the Legislature had spoken in terms reaching not only to a surety, but also to a co-debtor, and that the Court was fully justified in considering the word "surety" to refer to both parties for whose benefit the enactment was passed—that is, both co-sureties and co-debtors. Besides, he was not prepared to say that the co-debtor, paying the debt, had not a right to the assignment of the judgment which the statute gave him, to make the

most of it that he could; although possibly there might be a plea so framed as to throw difficulties in the way of proceeding on the judgment.

This decision of the Court of Common Pleas is, we have no doubt, quite right, and it would have been much to have been regretted if the Legislature, by the use of inapt words, had failed, on so important a subject, to carry out what was manifestly its intention—the assimilation of the English to the Scottish law, which on this subject is founded on the Roman law.

It is, however, still left in doubt what use can be made of the judgment when assigned to the co-debtor who has paid off the debt. We think, whatever may be at present the effect of the Mercantile-law Amendment Act, that the broad and comprehensive doctrine of the Roman law should be, if it be not already, adopted and carried out in this country, so that, on payment of a debt by a surety or co-debtor, not only should he have a right (independently of collateral securities) to an assignment of the debt, or any judgment obtained in respect of it, but that such debt or judgment should come into the hands of the co-debtor with all the original obligatory force which either may have had in the hands of the principal creditor, the payment or satisfaction thereof being considered not in any respect as an extinguishment, but as a sale of the debt.

#### PAYMENT OF WITNESSES IN CRIMINAL CASES.

In a former number (ante, p. 331) we inserted an important presentment made at the Summer Assizes for Liverpool, condemning the insufficiency of the scale of allowances to witnesses at sessions and assizes, under the order of Sir George Grey of the 9th February, 1858. The grand jury of the county of York have adopted the same view, and presented the following memorial to the judge of the Winter commission of gaol delivery:—

"The grand jury of the county of York, at the Winter gaol delivery in December, 1860, desire most respectfully to call the attention of the Hon. Mr. Justice Hill to the scale of allowances to prosecutors and witnesses in criminal cases at assizes and quarter sessions, as being quite insufficient adequately to remunerate those in the humbler walks of life, who are necessarily called away from their families and their ordinary occupations, for their expenses and loss of time, by which last expression the grand jury understand the stats. 7 Geo. 4, c. 64, s. 22, and 14 & 15 Vict. c. 45, to mean the reasonable allowance for the loss of wages during the time such witnesses are necessarily absent from their homes and their work. Those of the grand jury who are acting justices are not unfrequently very much embarrassed by the extreme reluctance of material witnesses to come forward to prosecute and give evidence in criminal cases of the gravest kind, as well as in all other cases likely to be sent for trial at assizes and quarter sessions within their jurisdiction, by reason of the loss of wages they thereby sustain, and the consequent privation to which their families are subjected. Necessary witnesses not unfrequently declare, that from their experience in former cases, they are reluctant, and even decline, again to come forward as witnesses. The grand jury are of opinion that justice is greatly impeded, and in many cases defeated, by the inadequate remuneration awarded under the present scale of allowances, and, from their observation and experience, they fear this is an increasing evil."

The Queen has been pleased to appoint Stewart Campbell, Esq., to be one of her Majesty's Counsel for the province of Nova Scotia.

## PROSPECTUS OF THE LECTURES

*To be delivered during the ensuing Hilary Educational Term by the several Readers appointed by the Inns of Court.*

## CONSTITUTIONAL LAW AND LEGAL HISTORY.

THE Reader will pursue the History of our Constitution from the Accession of Henry VIII to the Accession of George III. He will trace the progress and varieties of judicial opinion as it affected the interpretation of Law—the Law of Real Property, the Law of Evidence, the Law of Libel, the Criminal Law, and the Doctrines of Equity; and he will point out the changes and growth of the Statute Law during the same period.

In his Private Classes he will continue to explain the History of our Constitution, and to point out its gradual progress during the Reigns of the Plantagenets, Tudors, and Stuarts.

The books to which he will refer are—Blackstone's Commentaries, by Kerr—Reeves's History of the English Law—Millar's History—Lord Brougham's Political Philosophy, vol. 3—Plowden's Reports—Hallam's Constitutional History—Rapin's History of the Period—Appendices to Hume's History—State Trials of the Period—Butler's Notes to Coke Littleton—Statute Book of the Period—Fortescue, (Amos)—Parliamentary History—Hayes's History of Conveyancing—Clarendon's Life and History—May's History—Burnet's History—Starkie's Law of Libel—Greenleaf on Evidence—Ralph's History and Memoirs—Coke's Institutes—Foster's Crown Law.

## EQUITY.

The Reader on Equity proposes to deliver, during the ensuing Educational Term, a course of Nine Lectures on the following subjects:—

1. On Voluntary Conveyances and Settlements.
2. On Donaciones Mortis Causa.
3. On Charitable and Superstitious Uses.
4. On Trusts for the Separate Use of Married Women.
5. On a Wife's Equity to a Settlement.

The Reader will continue with his Senior and Junior Classes the general Courses of Equity already commenced. He will also continue in the Senior Class, and commence in the Junior, to explain the leading Rules of Pleading in Equity, from the work of Lord Redesdale.

## THE LAW OF REAL PROPERTY.

The Reader on the Law of Real Property proposes to deliver, in the ensuing Educational Term, Nine Lectures on the following subjects:—

1. The Statutes of Mortmain and Charitable Trusts.
2. The Law of Marriage Settlements and Separation Deeds.

In his Private Classes the Reader on the Law of Real Property will refer more particularly to the cases cited in the Public Lectures. He will also continue his course of Real Property Law, using the work of Mr. Joshua Williams as a text-book.

## JURISPRUDENCE AND THE CIVIL LAW.

The Reader on Jurisprudence and the Civil Law proposes to deliver Nine Public Lectures, in the course of the ensuing Term, on the following subjects:—

1. The Roman Law of Wills, and the Principles descended from it to Modern Jurisprudence.
2. The Analysis of the principal Legal Conceptions.
3. Principles of Classification in Jurisprudence.
4. The Roman Law of Contract.
5. The Roman Law relating to Women, and its Influence on Modern Jurisprudence.

With his Private Class the Reader will proceed through all the principal departments of Roman Law, beginning with the Law of Things, and using as his

text-book the Institutiones Juris Romani Privati of Warnkönig.

## COMMON LAW.

The Reader on Common Law proposes to deliver, during the ensuing Educational Term, a course of Nine Public Lectures on Contracts generally, and on Mercantile Contracts, as under:—

Lecture 1. Remarks as to Contracts generally—the different Kinds of Contracts—their Obligatory Force.

2. Leading Principles which govern the Law of Contracts.

3. The Nature and Requisites of a Simple Contract.  
4 and 5. Inquiry as to the Origin and Progress of Mercantile Law in this Country.

6 and 7. In these Lectures the Provisions of some of our Leading Mercantile Statutes will be considered.

8. The Mercantile Instruments in common Use will be specified, and their Operation will be briefly explained.

9. The Rules applicable to the Construction and Interpretation of Mercantile Instruments will be stated and illustrated.

With his Private Class the Reader will consider seriatim the subjects above enumerated, using as text-books, and for reference, Smith's Compendium of Mercantile Law, by Dowdeswell; Smith's Leading Cases, last edition; and Tudor's Leading Cases on Mercantile and Maritime Law.

By order of the Council,  
(Signed) RICHARD BETHELL, Chairman.

## Court Papers.

## EQUITY SITTINGS, HILARY TERM, 1861.

## Court of Chancery.

## Before the LORD CHANCELLOR.

## At Lincoln's Inn.

Friday .... Jan. 11	Appeal Motions and Appeals.
Saturday ..... 12	Petitions and Appeals.
Monday ..... 14	} Appeals.
Tuesday ..... 15	
Wednesday .... 16	} Appeal Motions and Appeals.
Thursday ..... 17	
Friday ..... 18	} Appeals.
Saturday ..... 19	
Monday ..... 21	
Tuesday ..... 22	
Wednesday .... 23	} Appeal Motions and Appeals.
Thursday ..... 24	
Friday ..... 25	} Appeals.
Saturday ..... 26	
Monday ..... 28	
Tuesday ..... 29	
Wednesday .... 30	} Appeal Motions and Appeals.
Thursday ..... 31	

## Before the LORDS JUSTICES.

## At Lincoln's Inn.

Friday .... Jan. 11	Appeal Motions and Appeals.
Saturday ..... 12	Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Monday ..... 14	} Appeals.
Tuesday ..... 15	
Wednesday .... 16	} Appeal Motions and Appeals.
Thursday ..... 17	
Friday ..... 18	Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Saturday ..... 19	} Appeals.
Monday ..... 21	
Tuesday ..... 22	
Wednesday .... 23	
Thursday ..... 24	Appeal Motions and Appeals.
Friday ..... 25	Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.

Saturday .....	26	} Appeals.
Monday .....	28	
Tuesday .....	29	
Wednesday .....	30	
Thursday .....	31	Appeal Motions and Appeals.

*Notice.*—The days (if any) on which the Lords Justices shall be engaged in the full Court, or at the Judicial Committee of the Privy Council, are excepted.

*Before the MASTER OF THE ROLLS.*

*At Chancery-lane.*

Friday .....	Jan. 11	Motions.
Saturday .....	12	Petitions, Short Causes, Adjourned Summonses, and General Paper.
Monday .....	14	} General Paper.
Tuesday .....	15	
Wednesday .....	16	} Motions.
Thursday .....	17	
Friday .....	18	General Paper.
Saturday .....	19	Petitions, Short Causes, Adjourned Summonses, and General Paper.
Monday .....	21	} General Paper.
Tuesday .....	22	
Wednesday .....	23	} Motions.
Thursday .....	24	
Friday .....	25	General Paper.
Saturday .....	26	Petitions, Short Causes, Adjourned Summonses, and General Paper.
Monday .....	28	} General Paper.
Tuesday .....	29	
Wednesday .....	30	} Motions.
Thursday .....	31	

N. B.—The Unopposed Petitions must be presented, and copies left with the Secretary, on or before the Thursday preceding the Saturday on which it is intended they should be heard; and any Causes intended to be heard as Short Causes must be so marked at least one clear day before the same can be put into the paper to be so heard.

*Before the Vice-Chancellor Sir RICHARD T. KINDERSLEY.*

*At Lincoln's Inn.*

Friday ....	Jan. 11	Motions.
Saturday .....	12	Petitions, Short Causes, and Adjourned Summonses.
Monday .....	14	} General Paper.
Tuesday .....	15	
Wednesday .....	16	} Motions and General Paper.
Thursday .....	17	
Friday .....	18	Petitions.
Saturday .....	19	Short Causes, Adjourned Summonses, and General Paper.
Monday .....	21	} General Paper.
Tuesday .....	22	
Wednesday .....	23	} Motions and General Paper.
Thursday .....	24	
Friday .....	25	Petitions.
Saturday .....	26	Short Causes, Adjourned Summonses, and General Paper.
Monday .....	28	} General Paper.
Tuesday .....	29	
Wednesday .....	30	} Motions and General Paper.
Thursday .....	31	

N. B.—Any Causes intended to be heard as Short Causes must be so marked at least one clear day before the same can be put into the paper to be so heard.

*Before the Vice-Chancellor Sir JOHN STUART.*

*At Lincoln's Inn.*

Friday ....	Jan. 11	Motions.
Saturday .....	12	Petitions, Short Causes, and General Paper.
Monday .....	14	} General Paper.
Tuesday .....	15	
Wednesday .....	16	} Motions and General Paper.
Thursday .....	17	
Friday .....	18	Petitions and General Paper.
Saturday .....	19	Short Causes and General Paper.
Monday .....	21	} General Paper.
Tuesday .....	22	
Wednesday .....	23	

Thursday .....	24	Motions and General Paper.
Friday .....	25	Petitions and General Paper.
Saturday .....	26	Short Causes and General Paper.
Monday .....	28	} General Paper.
Tuesday .....	29	
Wednesday .....	30	
Thursday .....	31	Motions.

N. B.—Any Causes intended to be heard as Short Causes must be so marked at least one clear day before the same can be put into the paper to be so heard.

*Before the Vice-Chancellor Sir W. P. WOOD.*

*At Lincoln's Inn.*

Friday ....	Jan. 11	Motions and General Paper.
Saturday .....	12	Petitions, Short Causes, and General Paper.
Monday .....	14	} General Paper.
Tuesday .....	15	
Wednesday .....	16	} Motions and General Paper.
Thursday .....	17	
Friday .....	18	General Paper.
Saturday .....	19	Petitions, Short Causes, and General Paper.
Monday .....	21	} General Paper.
Tuesday .....	22	
Wednesday .....	23	} Motions and General Paper.
Thursday .....	24	
Friday .....	25	General Paper.
Saturday .....	26	Petitions, Short Causes, and General Paper.
Monday .....	28	} General Paper.
Tuesday .....	29	
Wednesday .....	30	} Motions and General Paper.
Thursday .....	31	

N. B.—Any Causes intended to be heard as Short Causes must be so marked at least one clear day before the same can be put into the paper to be so heard.

**COMMON-LAW SITTINGS, IN AND AFTER HILARY TERM, 1861.**

**Court of Queen's Bench.**

*In Term.*

MIDDLESEX.	LONDON.
1st sitting, Monday, Jan. 14	1st sitting, Friday .. Jan. 18
2nd sitting, Monday .....	2nd sitting, Friday .....
3rd sitting, Monday .....	25
For undefended causes only.	

*After Term.*

Friday .....	Feb. 1	Friday .....	Feb. 15
The Court will sit at ten o'clock every day.			
The causes in the list for each of the above sitting days in term, if not disposed of on those days, will be tried by adjournment on the days following each of such sitting days.			

**Court of Common Pleas.**

*In Term.*

MIDDLESEX.	LONDON.
Monday .....	Friday .....
Monday .....	Friday .....
Friday .....	Wednesday .....

*After Term.*

Friday .....	Feb. 1	Wednesday .....	Feb. 13
The Court will sit during and after term at ten o'clock.			
The causes in the list for each of the above sitting days in term, if not disposed of on those days, will be tried by adjournment on the days following each of such sitting days.			

**Exchequer of Pleas.**

*In Term.*

MIDDLESEX.	LONDON.
1st sitting, Monday .. Jan. 14	1st sitting, Friday .. Jan. 18
2nd sitting, Monday .....	2nd sitting, Friday .....
3rd sitting, Monday .....	25

*After Term.*

Friday .....	Feb. 1	Wednesday .....	Feb. 13
The Court will sit in and after term at ten o'clock.			
The Court will sit in Middlesex, at Nisi Prius, in term, by adjournment from day to day, until the causes entered for the respective Middlesex Sittings are disposed of.			



## COMMON-LAW CAUSE LISTS, HILARY TERM, 1861.

## Court of Queen's Bench.

## NEW TRIALS.

## FOR JUDGMENT.

Durham—Ashworth v. Stanwix &amp; an.

## FOR ARGUMENT.

*Moved Mich. Term, 1858.*  
Cornwall—Lyle v. Richards  
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Dunn v. Lawson (Ap.)  
Mersey Docks and Harbour Board v. Cameron (By ord.)  
Medway Co. v. Romney (Case Nisi Prius)  
Cahill v. London and North-western Railway Co. (Case Nisi Prius)  
Brown v. Mayor, &c. of Lon-don (D.)  
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Guardians of the Cambridge Poor-law Union v. Parr (Ap.)  
Wallington v. White (Ap.)  
Purnell v. Wolverhampton New Waterworks Co. (Ap.)  
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European & Australian Royal Mail Co. v. Royal Mail Steam-packet Co. (Ap.)  
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In re Baxendale v. Great Western Railway Co.  
In re Nutt v. Midland Rail-way Co. (Until application to Chancery is disposed of)

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Slipper v. Back  
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### Court of Exchequer.

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*Nisi Prius.*

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Chester—Plant v. Taylor  
" Same v. Same  
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" Morgan v. Ravey  
Durham—Cowley v. Mayor, &c. of Sunderland  
Liverp.—Pott v. Lomas  
" Bradley v. Dunipace

##### FOR ARGUMENT.

*Moved Easter Term, 1880.*  
Liverp.—Seymour v. Green-wood.  
*Moved Mich. Term, 1880.*  
York—Bower v. Hinchliffe  
Liverp.—Holmes v. Clarke  
Exeter—Pring v. Pring  
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Maidstone—Hole v. Sitting-bourne & Sheer-ness Railw. Co.  
Guildford—Hutton v. Ham-bro  
Nottingh.—Smith v. Wilson  
" Searson v. Robin-son  
Stafford—Busst v. Gibbons  
" Taylor v. Meeson  
Glo'ster—Rogers v. Hadley

*Moved after the 4th day of Mich. Term, 1880.*

Midd.—Jackson v. Hay  
" Atkinson v. Denby  
" Weber v. Mowbray  
" Wilkinson v. Ibbett  
" Eales v. Cumberland and Black-lead Mining Co.  
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Stroyan v. Same (Sp. C. under award)  
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**LUDVIG LEVISON**, Leamington, Warwickshire, merchant, Jan. 16 and Feb. 11 at 11, Birmingham: Off. Ass. Kinhear; Sola. Duignan & Ebsworth, Walsall. — Pet. d. Dec. 12.

**HENRY SLATOR**, Holbeach, Lincolnshire, common brewer, Jan. 17 and 31 at 11, Nottingham: Off. Ass. Harris; Sol. Ashwell, Nottingham. — Pet. d. Dec. 28.

**THOMAS FLOOD**, Houlton, Devonshire, hardwareman, Jan. 16 and Feb. 19 at 12, Exeter: Off. Ass. Hirtzel; Sola. Reece, Birmingham; Turner & Hirtzel, Exeter. — Pet. d. Dec. 19.

**WILLIAM HUTCHINS**, Neath, Glamorganshire, butcher, Jan. 15 and Feb. 13 at 11, Bristol: Off. Ass. Miller; Sola. Goodacre, Swansea; Bevan & Co., Bristol. — Pet. f. Dec. 29.

**THOMAS BARTON**, Liverpool, tanner, (trading under the style or firm of Thomas Barton & Son), Jan. 15 and Feb. 7 at 11, Liverpool: Off. Ass. Turner; Sol. Banner, Liverpool. — Pet. f. July 28.

#### MEETINGS.

*Mark Warren*, Shoreditch, Middlesex, haberdasher, Jan. 14 at half-past 11, London, last ex. — *George Wilkinson*, Durham, grocer, Jan. 15 at 12, Newcastle-upon-Tyne, last ex. — *A. Aubert* and *C. Powell*, St. Mary-axe, City, insurance brokers, Jan. 8 at 12, London, aud. ac. — *George Robinson* and *Robert Witt*, Bermondsey-square, Bermondsey, Surrey, licensed victuallers, Jan. 11 at half-past 1, London, aud. ac. — *John Surman*, Southampton, tailor, Jan. 18 at 2, London, aud. ac. — *Frederick Randall*, Whitechapel-road, Middlesex, coachbuilder, Jan. 18 at 1, London, aud. ac. — *M. Fothergill*, Upper Thames-street, City, chemical manure merchant, Jan. 18 at 1, London, aud. ac. — *W. Powell*, Newport, Monmouthshire, draper, Jan. 17 at 11, Bristol, aud. ac. — *William Elliott*, Church-street, and Oxford-terrace, King's-road, Chelsea, Middlesex, builder, Jan. 22 at half-past 11, London, div. — *Edgar Robert Ramage*, Bond-court, Walbrook; Upper Thames-street, City; and Gloucester-cottage, Peckham, Surrey, wine cooper, Jan. 22 at 11, London, div. — *Reuben Amias*, Conduit-street, Regent-street, Middlesex, tailor, Jan. 22 at 11, London, div. — *Henry Johnson*, Spencer-road, Stoke Newington-green, and St. James's-walk, Clerkenwell-green, Middlesex, house decorator, Jan. 22 at 12, London, div. — *Thos. George Wicks*, Beckford-row, Walworth, Surrey, linen draper, Jan. 22 at half-past 11, London, div. — *John William Bevil*, Cheltenham, Gloucestershire, tobacconist, Jan. 23 at half-past 11, London, div. — *George Gridley*, Matilda-street, Caledonian-road, Islington, Middlesex, coachmaker, Jan. 22 at 1, London, div. — *John Miller*, Nottingham, pawnbroker, Jan. 17 at 11, Nottingham, aud. ac. and div. — *George Batters*, Nottingham, printer, Jan. 24 at 11, Nottingham, aud. ac. and div.

#### CERTIFICATES.

*To be allowed, unless Cause be shewn to the contrary on or before the Day of Meeting.*

*Thomas J. Nicks*, Worship-street, Finsbury-square, Middlesex, Russia mat merchant, Jan. 25 at half-past 11, London. — *Thomas W. Blagfield*, Leather-lane, Holborn, Middlesex, and Leases-heath, Kent, builder, Jan. 25 at 12, London. — *William John Cox*, Fetter-lane, City, grocer, Jan. 23 at 2, London. — *Abraham Hammond* and *John Nevard*, Lee, Kent, builders, Jan. 23 at half-past 11, London. — *William Smith*, Eastbourne-mews, Westbourne-terrace, Paddington, Middlesex, horse dealer, Jan. 23 at 1, London. — *William Powell*, Newport, Monmouthshire, draper, Jan. 29 at 11, Bristol. — *John Wilson*, Sunderland, Durham, shoemaker, Jan. 24 at half-past 11, Newcastle-upon-Tyne. — *Wm. Higgins Merrick*, Halesowen, Worcestershire, innkeeper, Jan. 28 at 11, Birmingham. — *Richard Goodacre*, Nottingham, grocer, Jan. 29 at 11, Nottingham. — *John Miller*, Nottingham, pawnbroker, Jan. 22 at 11, Nottingham. — *John Parker Hall*, Liverpool, broker, Jan. 25 at 11, Liverpool. — *Robert M. Bouch*, Liverpool, general warehouseman, Jan. 25 at 12, Liverpool.

*To be granted, unless an Appeal be duly entered.*

*John Tripp*, Cross-street, Walworth, Surrey, tallowchandler. — *William F. Crofts*, Castle-street East, Oxford-street, Middlesex, printer. — *John T. Burgon*, Bucklersbury, City, wholesale hardwareman. — *Joseph Chadwick*, Wellington Wharf, Augustus-st., Regent's-park, Middlesex, stone merchant. — *Wm. Score*, Hatcham, Surrey, soap manufacturer. —

*Thomas Manning*, Aldershot, Southampton, hotel keeper. — *Wm. O. Pearson*, Gravesend, Kent, silk agent. — *Robert E. Martin*, Brighton, Sussex, surgeon. — *Rich. Steward*, Great Yarmouth, Norfolk, carpenter. — *Lazarus Lewis*, Hutchison-street, Gravel-lane, Houndsditch, City, general trimming seller. — *Thomas Blasco*, Great James-street, Lisson-grove, Marylebone, Middlesex, leather seller. — *John Burton*, Colsterworth, Lincolnshire, brick manufacturer. — *John Hawley Sharpe*, Denby, Derbyshire, boarding-house keeper.

#### PETITION ANNULLED.

*George Atkinson*, Bradford, Yorkshire, joiner.

#### PARTNERSHIPS DISSOLVED.

*George Salter* and *Wm. H. Randles*, Ellesmere, Shropshire, attornies, solicitors, and conveyancers. — *Oliver W. Lloyd* and *Alfred Rosher*, St. Swithin's-lane, City, attornies and solicitors. — *Baker Smith* and *George J. Oliver*, Lawrence-lane, City, attornies and solicitors. — *James W. Lyon*, *Keith Barnes*, and *George H. Ellis*, Spring-gardens, Westminster, attornies, solicitors, and Parliamentary agents, (so far as regards *James W. Lyon*).

#### SCOTCH SEQUESTRATIONS.

*James Hamilton*, Melrose, draper. — *John Paterson*, Kilmarnock, grocer. — *Alexander Wilson*, Mill of Aucreddie, New Deer, farmer. — *Thomas B. H. Christie*, Glasgow, accountant.

COMMISSIONER TO ADMINISTER OATHS IN CHANCERY. — The Lord Chancellor has appointed *John Jones*, Gent., of Dolgelly, Merionethshire, to be a Commissioner to administer oaths in the High Court of Chancery.

*Mr. Henry Thring* has been appointed Parliamentary draftsman to the Home Office, in place of the late *Mr. Walter Coulson*.

REVISING BARRISTERSHIP. — The office of revising barrister for the city of London has become vacant by the death of *T. Y. McChristie, Esq.*, by whom it was held for many years.

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# THE STATUTES

PASSED IN THE SESSION 1860—23 & 24 VICTORIA.

## CAP. I.

An Act to render valid certain Marriages in the Chapel of St. Mary, in Rydal, in the County of Westmoreland.  
[19th March, 1860.]

## CAP. II.

An Act to apply the Sum of Four Hundred and Seven Thousand Six Hundred and Forty-nine Pounds out of the Consolidated Fund to the Service of the Year ending the 31st March, 1860.  
[19th March, 1860.]

## CAP. III.

An Act to apply the Sum of Four Million Five Hundred Thousand Pounds out of the Consolidated Fund to the Service of the Year 1860.  
[23rd March, 1860.]

## CAP. IV.

An Act to enable the Commissioners of Her Majesty's Treasury to defray One Moiety of the Expense of the annual Revision of the Valuation of Rateable Property in Ireland out of the Consolidated Fund.  
[26th March, 1860.]

Whereas the tenement valuation of rateable property in Ireland, made and revised in pursuance of the provisions of an act passed in the 15 & 16 Vict. c. 63, and of an act passed in the 17 & 18 Vict. c. 8, is now used as the basis of public general as well as local taxation in Ireland, and it is expedient to provide that one moiety of the expense of the annual revision of such valuation shall be defrayed out of the public funds, and otherwise to amend the laws relating thereto: be it therefore enacted &c. as follows:—

Sect. 1. Commencement of act.

2. Power to Treasury to advance such sums of money as they may think fit towards the expense of the annual revision of the valuation of rateable property in Ireland.

3. Commissioner of valuation, &c. to continue to act.

4. Power to Treasury to appoint commissioner of valuation, &c.

5. Commissioner of valuation to appoint surveyors, writing clerks, &c.

6. Valuation lists may be in the form annexed to this act.

7. As to the valuation of mills, &c.

8. Proportion of expense to be paid by counties, &c., as provided by the 15 & 16 Vict. c. 63.

9. Commissioner authorised to supply copies of valuations and maps to Landed Estates Court and other courts or persons, and to charge fees for the same, &c. Copies of valuations to be received as evidence.

10. Power to obtain decision of superior courts on questions of law. Chairman of quarter sessions may state case for opinion of superior court.

11. Power to superior court to decide such questions as may be referred thereto. Decision of court of quarter sessions to be binding until the decision of superior court.

12. No writ of certiorari required.

13. Provisions of acts inconsistent with this act repealed.

14. Acts to be construed together.

15. Short title.

## CAP. V.

An Act to regulate Probate and Administration with respect to certain Indian Government Securities; to repeal certain Stamp Duties; and to extend the Operation of the Act of the 22 & 23 Vict. c. 39, to Indian Bonds.  
[23rd March, 1860.]

Sect. 1. *Indian Government notes on which interest is payable in London, and certain Indian Government promissory notes, to be deemed bona notabilia in England. Probate, &c. or confirmation granted in Scotland valid &c.*

2. *Transfers of territorial debt and of Indian Government loans not chargeable with stamp duty.*

3. *Power to raise money under the act 22 & 23 Vict. c. 39, extended to repayment of East India Bonds.*

Sect. 1. All Indian Government promissory notes, and certificates issued or stock created in lieu thereof, being assets of a deceased person, the interest whereon or in respect of which shall be payable in London by drafts payable in India, and which at the decease of the owner thereof shall have been registered in the books of the Secretary of State in council in London, or in the books of the Governor and Company of the Bank of England, or shall have been enforced in India for the purpose of being so registered before the decease of the owner thereof, and all Indian Government promissory notes issued with coupons attached, which, under such regulations and conditions as may be determined from time to time by the Secretary of State in council, shall be so registered, and all certificates issued or stock created in lieu thereof, shall be deemed and taken to be personal estate and bona notabilia of such deceased person in England, and probate or letters of administration in England, or confirmation granted in Scotland, and sealed with the seal of the principal Court of Probate in England, in pursuance of the provisions of the Confirmation and Probate Act, 1856, shall be valid and sufficient to constitute the persons therein named the legal personal representatives of the deceased with respect to such notes and monies as aforesaid.

2. So much of the 5th section of the said first-recited act as enacts that every transfer of any part of the said territorial debt in the books of the East India Company in England, whether upon a sale thereof or otherwise, shall be chargeable with a stamp duty of 1*l.* 10*s.*, and no more, is hereby repealed; and no transfer of any part of the said territorial debt or of Indian Government loans registered and transferable in the books of the Secretary of State in council in London, or in the books of the Governor and Company of the Bank of England, shall be chargeable with any stamp duty.

3. Upon or for the repayment of any principal money secured by the said bonds, the Secretary of State in council may at any time borrow or raise, by all or any of the modes authorised by the said recited act passed in the session holden in the 22 & 23 Vict. c. 39, all or any part of the principal money so repaid or to be repaid, and so from time to time as all or any part of the principal money secured by the said bonds may have been repaid or require to be repaid, but the amount to be charged upon the revenues of India shall not in any case exceed the principal money repaid or required to be repaid; and the provisions of the said recited act with reference to the creation of the capital stock and annuities created under the authority of the said act, and with reference to the issue, payment, and transfer of the capital stock, annuities, bonds, and debentures issued under the authority of the said act, shall be held to be in force, and to apply to the creation, issue, payment, and transfer of the capital stock, annuities, bonds, and debentures created and issued under the authority of this act.

## CAP. VI.

An Act to transfer to the Postmaster-General Securities entered into with the Commissioners of the Admiralty in relation to the Packet Service.  
[23rd March, 1860.]

## CAP. VII.

An Act to amend the Medical Acts.  
[23rd March, 1860.]

Sect. 1. *Licentiates in surgery of any university in Ireland entitled to be registered under the first-recited act [21 & 22 Vict. c. 90] in like manner as masters in surgery.*

2. *Certain powers given to medical council extended to this act.*
3. *"The 1st January, 1861," to be substituted, in sects. 32, 34, 36, and 37 of the first-recited act, for "the 1st July, 1859," so far as relates to persons authorised to be registered under this act.*
4. *No person authorised to be registered under this act disqualified to hold certain offices, unless he has failed to be registered.*
5. *Recited acts [21 & 22 Vict. c. 90, and 22 Vict. c. 21] and this act to be construed as one.*
6. *Short title.*

Sect. 1. From and after the passing of this act the diploma or license in surgery granted by any university of that part of the United Kingdom called Ireland, legally authorised to grant the same, shall be considered a sufficient qualification to practise under the said first-recited act, [21 & 22 Vict. c. 90], and every person to whom such diploma or license has been granted shall be entitled to be registered under the provisions of the said first-recited act, in the like manner, and with the like effect, and subject to the like provisions as are prescribed by the said first-recited act in respect of the registration of any master in surgery of any university of the United Kingdom.

2. The powers given to the medical council in the said first-recited act with respect to the studies and examinations required for obtaining a qualification under the said act shall be extended to the studies and examinations required for a qualification under this act.

3. "The 1st January, 1861," shall be deemed to be substituted in sects. 32, 34, 36, and 37 respectively of the said first-recited act, as the same are amended by the said second-recited act, [22 Vict. c. 21], for "the 1st July, 1859," so far as the same relate to any person authorised to be registered under this act; and the said several sections, as so amended, and all the provisions of the said act having reference thereto, shall, with respect to any such person so authorised to be registered under this act, be construed and take effect as if the words "the 1st January, 1861," had been originally inserted in each of the said sections, instead of the words "the 1st July, 1859."

4. No person authorised to be registered under this act, who shall be acting as medical officer under an order of the Poor-law Commissioners or Poor-law Board, shall, by reason of the said recited acts, [21 & 22 Vict. c. 90, and 22 Vict. c. 21], or either of them, be or be deemed to have been disqualified to hold such office, or any appointment mentioned in sect. 36 of the said first-recited act, unless he shall have failed to be registered on or before the 1st January, 1861.

5. The said recited acts and this act shall be construed together as one act.

6. This act may for all purposes be cited as "The Medical Acts Amendment Act, 1860."

#### CAP. VIII.

An Act to amend the Law relating to the unlawful administering of Poison. [23rd March, 1860.]

- Sect. 1. *Any person maliciously administering poison, &c., with intent to endanger life, or inflict grievous bodily harm, to be guilty of felony.*
2. *Any person maliciously administering poison, &c., with intent to injure, aggrieve, or annoy any other person, to be guilty of a misdemeanour.*
3. *If the jury be not satisfied that any person charged is guilty of felony, but guilty of misdemeanour, they may find him guilty accordingly.*

Sect. 1. That whosoever shall unlawfully and maliciously administer to, or cause to be administered to or taken by, any other person, any poison or other destructive or noxious thing, so as thereby to endanger the life of such person, or so as thereby to inflict upon such person any grievous bodily harm, shall be guilty of felony, and, being convicted thereof, shall be liable to be sentenced to penal servitude for any period not exceeding ten years, and not less than three years, or to imprisonment for any term not more than three years, with or without hard labour, at the discretion of the court.

2. Whosoever shall unlawfully and maliciously administer

to, or cause to be administered to or taken by, any other person, any poison or other destructive or noxious thing, with intent to injure, aggrieve, or annoy such person, shall be guilty of a misdemeanour, and, being convicted thereof, shall be liable to be sentenced to imprisonment for any period not exceeding three years, with or without hard labour, at the discretion of the court, and the costs and expenses of the prosecution of any such misdemeanour may be allowed by the court as in cases of felony.

3. If, upon the trial of any person charged with the felony above mentioned, the jury shall not be satisfied that such person is guilty thereof, but shall be satisfied that he is guilty of the misdemeanour above mentioned, then, and in every such case, the jury may acquit the accused of such felony, and find him guilty of such misdemeanour, and thereupon the delinquent shall be liable to be punished in the same manner as if convicted upon an indictment for the misdemeanour.

#### CAP. IX.

An Act for punishing Mutiny and Desertion, and for the better Payment of the Army and their Quarters. [31st March, 1860.]

#### CAP. X.

An Act for the Regulation of Her Majesty's Royal Marine Forces while on Shore. [31st March, 1860.]

#### CAP. XI.

An Act to amend the Law relating to Endowed Schools. [31st March, 1860.]

- Sect. 1. *Power to trustees of endowed schools to make orders for the admission of children of denominations herein stated.*
2. *Act not to apply to certain institutions, or to Scotland or Ireland.*
3. *Short title.*

Sect. 1. It shall be lawful for the trustees or governors of every endowed school from time to time to make, and they shall be bound to make, such orders as, whilst they shall not interfere with the religious teaching of the other scholars as now fixed by statute or other legal requirement, and shall not authorise any religious teaching other than that previously afforded in the school, shall nevertheless provide for admitting to the benefits of the school the children of parents not in communion with the church, sect, or denomination according to the doctrines or formularies of which religious instruction is to be afforded under the endowment of the said school: provided, that in the will or wills, deed or deeds, or other instrument or instruments regulating such endowment, nothing be contained expressly requiring the children educated under such endowment to learn or to be instructed according to the doctrines or formularies of such church, sect, or denomination.

2. This act shall not apply to any of the institutions mentioned in sect. 24 of the act of the 3 & 4 Vict. c. 77, "An Act for improving the Condition and extending the Benefits of Grammar Schools," nor to any school established, or to be established, by or in union with, or to be in union with, the National Society for promoting the Education of the Poor in the Principles of the Established Church, nor to any institution maintained wholly by voluntary subscriptions, or partly by voluntary subscriptions and partly by school payments, nor to Scotland or Ireland.

3. This act may be cited as "The Endowed Schools Act, 1860."

#### CAP. XII.

An Act to apply the Sum of Eight Hundred and Fifty Thousand Pounds out of the Consolidated Fund to the Service of the Year ending the 31st March, 1860.

[31st March, 1860.]

#### CAP. XIII.

An Act to prevent the Members of Benefit Societies from forfeiting their Interest therein by being inrolled in Yeomanry or Volunteer Corps. [31st March, 1860.]

Sect. 1. No man by reason of his inrolment or service in any corps of yeomanry or volunteers shall lose or forfeit, or be deemed to have lost or forfeited, any interest he may pos-

ness, or may have possessed at the time of his so being inrolled or serving, in any friendly or benefit society, any laws, rules, or regulations of such society to the contrary notwithstanding; and in case any dispute shall arise between any such society and any such man by reason of such inrolment or service, it shall be considered as being a dispute directed by the rules of such society to be decided by justices of the peace, pursuant to the provisions of the acts in force relating to friendly societies.

CAP. XIV.

An Act for granting to Her Majesty Duties on Profits arising from Property, Professions, Trades, and Offices.

[3rd April, 1860.]

- Sect. 1. *Grant of duties on property, &c. for one year.*  
 2. *Duties to be assessed and raised under provisions of former acts.*  
 3. *The sums assessed under certain schedules for the last year to be taken as the annual value for this act. Property, &c. not charged for the last year to be assessed under this act.*  
 4. *Where, since the last assessment, property has been divided, proportions of the tax to be settled.*  
 5. *Commissioners for special purposes to assess railways;*  
 6. *And also the persons employed by railway companies.*  
 7. *Power for persons assessed for mines or quarries to appeal to the special commissioners.*  
 8. *Duties to be collected and accounted for.*  
 9. *Exemption where income under 100*l.*, and abatement where less than 150*l.**  
 10. *Repayment not to be granted unless claimed within three years.*  
 11. *Relief in respect of life insurances, &c. continued.*

Sect. 1. There shall be charged, collected, and paid for one year, commencing on the 6th April, 1860, for and in respect of all property, profits, and gains mentioned or described as chargeable in the act passed in the 16 & 17 Vict. c. 34, either by assessment, contract of composition, or otherwise, the following rates and duties—that is to say, upon the annual value or amount of any property, profits, or gains, (except property, profits, and gains described as chargeable under Schedule (B.) of the said act), the rate or duty of 10*d.* for every 20*s.* of the annual value or amount of all such property, profits, and gains respectively; and for and in respect of the occupation of lands, tenements, hereditaments, and heritages described as chargeable under Schedule (B.) of the said act, the rate or duty of 6*d.* in England, and 3*d.* in Scotland and Ireland respectively, for every 20*s.* of the annual value thereof.

2. The duties hereby granted shall be assessed, raised, levied, and collected under the regulations and provisions of the said last-mentioned act and of the several acts therein mentioned or referred to, so far as the same are or may be applicable, consistently with the express provisions of this act; and all the powers, regulations, and penalties of the said acts shall, so far as aforesaid, be applied, enforced, and put in execution with respect to the duties granted by this act.

3. The sum charged as the annual value of any property, profits, or gains in the several and respective assessments made under Schedules (A.), (B.), (D.), and (E.) of the said act, for the year ending on the 5th April, 1860, shall (except as to railways and otherwise, as hereinafter provided) be taken as the annual value or amount of such property, profits, or gains for the year commencing on the 6th April, 1860; and the duties granted by this act shall be computed and charged according to such annual value or amount, and shall be collected, levied, and paid for the said year commencing on the 6th April, 1860, subject, nevertheless, to be increased, abated, or discharged in like manner as the assessments made for the year ending on the said 5th April, 1860: provided, whenever it shall appear that any property, profits, or gains chargeable under this act have not been charged by the assessments made for the said last-mentioned year, such property, profits, and gains shall be assessed to the duties granted by this act, under the provisions of the said several acts applicable thereto.

4. If, since the making of any assessment under Schedules (A.) and (B.) for the year ending the 5th April, 1860,

the lands thereby charged shall have been divided into two or more distinct occupations, the commissioners for general purposes shall, on the appeal of the parties interested respectively, settle and adjust what proportion of the duties granted by this act under the said schedules shall be paid or borne by each occupier; and the amount apportioned on the respective parties shall be collected and levied in like manner as an original assessment.

5. No assessment shall be made under this act by the commissioners for general purposes in respect of the annual value or profits and gains arising from any railway, but in lieu thereof every such assessment shall be made by the commissioners for special purposes, and upon the value or profits and gains for the year ending the 5th April, 1860; and the said last-mentioned commissioners shall notify the assessment to the secretary or other officer of the company upon which the same shall be made, and the amount of such assessment shall be paid, collected, and levied in like manner as any other assessment made by the said commissioners for special purposes.

6. In like manner as aforesaid the commissioners for special purposes shall assess the duties payable under Schedule (E.) in respect of all offices and employments of profit held in or under any railway company, and shall notify to the secretary or other officer of such company the particulars thereof, and the said assessment shall be deemed to be and shall be an assessment upon the company, and paid, collected, and levied accordingly; and it shall be lawful for the company or such secretary or other officer to deduct and retain out of the fees, emoluments, or salary of each such officer or person the duty so charged in respect of his profits and gains.

7. It shall be lawful for any person assessed to the duty chargeable under Schedule (A.) of the said act in respect of any mine of coal, tin, lead, copper, mundic, or iron, or any other mine, or any quarry of stone or slate, to appeal against any such assessment to the commissioners for special purposes, instead of the commissioners for general purposes, if he shall think fit, and give due notice of his intention so to do; and thereupon such appeal shall be heard and determined by two or more of the commissioners for special purposes, in like manner as any appeal against an assessment of the duties contained in Schedule (D.) of the said acts may lawfully be heard and determined by them; and all powers and authorities, rules and regulations, contained in the said acts in relation to any such last-mentioned assessment and appeal, and to the carrying into execution and enforcing the determination of the said commissioners for special purposes thereon, shall be exercised and put in force in relation to any appeal by this act authorised to be made to the said last-mentioned commissioners and their determination thereon.

8. The several collectors shall pay to the proper officer for receipt, or to his deputy, all the monies of the said duties collected and levied by such collectors, on the respective days to be appointed by such officer for receipt, or his deputy, next after the receipt of the said duties by the said collectors, and shall at the same time account for the duties given them in charge respectively, and then payable by law, in like manner as they are now by law required to account half-yearly.

9. Any person assessed or charged to any of the duties granted by this act who shall prove that his aggregate annual income is less than 100*l.* shall be exempt from the said duties; and any person who shall be assessed or charged to any of the said duties, or shall have paid the same, either by deduction or otherwise, and who shall claim and prove that his total income from every source, although amounting to 100*l.* or upwards, is less than 150*l.* a year, for the year of the assessment of his profits or gains, shall be entitled to be relieved from so much of the said duties assessed upon or paid by him as shall exceed the rate of 7*d.* for every 20*s.* of his profits or gains, and such relief shall be given in the manner provided or directed in the like cases by the said act of the 16 & 17 Vict., and the act of the 5 & 6 Vict. c. 35, therein mentioned.

10. No claim for repayment of duty under this act, or any former act relating to the income tax, shall be allowed unless it shall be made within three years next after the end of the year of assessment to which the claim shall relate.

11. The clauses and provisions contained in the following acts—that is to say, the act of the 16 & 17 Vict. c. 34, s. 54, another act of the same year, c. 91, and an act of the 18 & 19

**Vict. c. 36**—for granting relief to persons who have made such insurances or contracted for such annuities as in the said acts mentioned, shall be continued in force, and be applied for the granting of the like relief in regard to the duties imposed by this act.

#### CAP. XV.

An Act for granting to Her Majesty certain Duties of Stamps.  
[3rd April, 1860.]

**Sect. 1.** *Duties on instruments described in schedule repealed.*

2. *New duties, as set forth in schedule, granted.*
3. *Provisions of former acts to apply.*
4. *Personal estate appointed by will under general powers to be chargeable with probate and inventory duties.*
5. *Probate and inventory duties in respect thereof to be a charge on the property.*
6. *Money secured on heritable property, and by heritable bonds, in Scotland, to be chargeable with probate and inventory duties.*
7. *Certain testamentary dispositions in Scotland not to be chargeable with stamp duty.*
8. *Certain duties in the schedule to be denoted either by impressed or adhesive stamps.*
9. *The persons making the instruments to affix adhesive stamps, and cancel the same. In default, penalty 20l. No charge for brokerage, &c. to be lawful unless instrument, &c. shall be duly stamped.*
10. *Penalty for fraudulently stating goods to be under the value of 40s.*
11. *The person requesting the entry of transfer of any share to affix and cancel an adhesive stamp. In default, penalty 20l.*
12. *The payers of bills of exchange, &c. to cancel stamps. In default, penalty 20l.*
13. *The stamps on foreign bills to be adhesive. The provisions of the 17 & 18 Vict. c. 83, to be applied.*
14. *Penalty on committing frauds in relation to adhesive stamps.*
15. *Penalty on stamping an agreement under the value of 20l. to be 20s. only.*

**Sect. 1.** The stamp duties now payable in the United Kingdom of Great Britain and Ireland for or in respect of the several instruments, matters, and things mentioned or described in the schedule to this act annexed, whereon other duties are by this act granted, shall respectively cease and determine, and shall be and the same are hereby repealed; provided that the stamp duties now chargeable on any of the said instruments, matters, and things shall be payable in respect of such of them as shall have been or shall be made, signed, or dated at any time before the passing of this act, save and except that the stamp duties on foreign bills of exchange by this act granted shall be payable on all such bills as shall, after the passing of this act, be first negotiated, or, if not negotiated, paid in the United Kingdom.

2. There shall be granted, raised, levied, and paid in and throughout the United Kingdom of Great Britain and Ireland, to and to the use of her Majesty, her heirs and successors, for and in respect of the several instruments, matters, and things described or mentioned in the said schedule, or for or in respect of the vellum, parchment, or paper upon which any of them respectively shall be written, the several stamp duties or sums of money set down in figures against the same respectively, or otherwise specified and set forth in the said schedule; which said schedule, and the several provisions, regulations, and directions therein contained with respect to the said duties, and the instruments, matters, and things charged therewith, shall be deemed and taken to be part of this act, and shall be applied and put in execution accordingly.

3. All the powers, provisions, clauses, regulations, directions, allowances, and exemptions, fines, forfeitures, pains, and penalties, contained in or imposed by any act or acts, or any schedule thereto, relating to any duties of the same kind or description heretofore payable in the United Kingdom, and in force at the time of the passing of this act, shall respectively be of full force and effect with respect to the duties by this act granted, and to the vellum, parchment,

paper, instruments, matters, and things charged and chargeable therewith, and to the persons liable to the payment of the said duties, so far as the same are or shall be applicable, in all cases not hereby expressly provided for, and shall be observed, applied, allowed, enforced, and put in execution for and in the raising, levying, collecting, and securing of the said duties hereby granted, and otherwise in relation thereto, so far as the same shall not be superseded by, and shall be consistent with, the express provisions of this act, as fully and effectually, to all intents and purposes, as if the same had been heretofore repeated and specially enacted, *mutatis mutandis*, with reference to the duties by this act granted.

4. The stamp duties payable by law upon probates of wills and letters of administration with a will annexed, in England and Ireland, and upon inventories in Scotland, shall be levied and paid in respect of all the personal or moveable estate and effects which any person, hereafter dying, shall have disposed of by will, under any authority enabling such person to dispose of the same, as he or she shall think fit; and, for the purpose of this act, such personal or moveable estate and effects shall be deemed to be the personal or moveable estate and effects of the person so dying in respect of which the probate of the will, or the letters of administration with the will annexed, of such person are or is granted, or the inventory is, or is required to be, exhibited and recorded, as the case may be; and such estate and effects, and the value thereof, shall accordingly be included in the affidavit required by law to be made on applying for probate or letters of administration, in order to the full and proper stamp duty being paid.

5. The said last-mentioned duties shall be a charge or burthen upon the property in respect of which the same are so payable, and shall be paid thereout by the trustees or owners thereof to the person for the time being lawfully having or taking the burthen of the execution of the will or testamentary instrument, or the administration or management of the personal or moveable estate and effects of the deceased; for the benefit of the persons entitled to the personal or moveable estate and effects of the deceased.

6. Money secured on heritable property in Scotland, and money secured by Scotch bonds in favour of heirs and assignees, excluding executors, shall, for the purposes of this act, be held and interpreted to be moveable property, and shall be included in any inventory to be exhibited and recorded in any commissary court in Scotland of the estate and effects of any person deceased entitled thereto, and in England and Ireland respectively shall be deemed to be estate and effects for or in respect whereof any probate of will or letters of administration shall be granted; and every such inventory, probate, and letters of administration shall be chargeable with stamp duty in respect of such moveable property; and such property, and the value thereof, shall be included in any such affidavit as aforesaid made on applying for probate or letters of administration in respect thereof in England or Ireland.

7. Whereas it is considered that certain testamentary dispositions in Scotland are chargeable with stamp duty, and it is expedient that the same should be exempted: be it enacted, that no will, testament, testamentary instrument, or disposition *mortis causa* shall be chargeable with any stamp duty.

8. The duties by this act granted of 1d. and 3d. respectively specified in the said schedule, and also of 6d. therein specified, under the head of "cost-book mines," may be denoted either by a stamp impressed upon the paper, or by an adhesive stamp affixed thereto; and the Commissioners of Inland Revenue shall provide stamps of both descriptions for the purpose of denoting the said duties; and the provisions and regulations relating to adhesive stamps contained in the next succeeding section of this act shall apply to all cases where the paper upon which the instrument, document, or writing charged with the duty shall not, at the time of its being written, made, or signed, have thereon the proper impressed stamp for denoting the said duty.

9. The person who shall make, sign, or issue any instrument, document, or writing in the schedule to this act mentioned, and chargeable with any of the duties of 1d. and 3d., shall, before he shall deliver the same out of his hands, custody, or power, affix to it the proper adhesive stamp denoting the duty chargeable thereon or in respect of it, and shall effectually cancel and obliterate the stamp, by writing upon



it his name, or the name of his firm or principal, or the initials thereof respectively, and the date of the day and year on which he shall so write the same, and so and in such manner as clearly and distinctly to indicate that the said stamp has already been used, and so that it cannot, without fraud, be again made use of; and if any person who ought so to affix any such stamp, and to cancel and obliterate the same, shall refuse or neglect so to do, or if any person shall receive or take by way of security or indemnity any of the said instruments, documents, or writings, or shall deliver out or authorise the delivery out of any goods, wares, or merchandise to which the same relates, the said instrument, document, or writing not having a proper adhesive stamp affixed thereto, and cancelled and obliterated as hereby required, every such person shall for every such offence forfeit the sum of 20*l.*; and no charge for brokerage, commission, agency, or otherwise, made or to be made by any broker, agent, or other person, in or about the sale or purchase mentioned or referred to in any such instrument, document, or writing made by him, shall be lawful unless such instrument, document, or writing shall be duly stamped as by this act is required: provided that no person shall be subject or liable to the said penalty for delivering any goods, wares, or merchandise, under the authority of any unstamped order, in any case where the value of such goods, wares, and merchandise shall therein be stated by the person making, signing, or issuing the same to be under the value of 40*s.*

10. If any person, who shall make, sign, or issue any order for, or any writing or document authorising, the delivery of any goods, wares, or merchandise by this act charged with the stamp duty of 1*d.*, shall knowingly and wilfully state or permit to be stated therein that the said goods, wares, or merchandise are or is under the value of 40*s.*, he shall, unless the said order, writing, or document shall, at the time of its being issued, be stamped to denote the said duty, forfeit the sum of 20*l.*

11. The person who shall write or sign any note, instrument, or writing requesting or authorising the purser or other officer of any mining company conducted on the cost-book system to enter or register the transfer of any share or shares, or part of any share, in any mine, or shall give any notice in writing to such purser or other officer of any such transfer, in whatever form such notice shall be, shall, in like manner as hereinbefore provided, affix thereto the proper adhesive stamp to denote the duty by this act charged thereon, and cancel and obliterate the same; and if he shall refuse or neglect so to do, or if the purser or other officer to whom such request, authority, or notice shall be addressed, delivered, sent, or given shall enter or register the transfer of any share mentioned or referred to in such notice, or shall comply with or in any way give effect to such notice, the same not being stamped as by this act is required, every such person so offending shall forfeit the sum of 20*l.*

12. Whenever any bill of exchange, draft, or order, having thereon an adhesive stamp, shall be presented for payment, the person to whom the same shall be presented shall, upon paying the same, write or impress, or cause to be written or impressed, upon every stamp affixed to the bill, the word "paid," to the end that the stamp may be more effectually cancelled, and made incapable of being used again; and in default of so doing he shall forfeit the penalty of 20*l.*

13. The duties by this act granted upon or in respect of bills of exchange, drafts, or orders drawn out of the United Kingdom shall be denoted by adhesive stamps, in like manner as the duties now payable on bills of exchange drawn out of the United Kingdom; and all the clauses, provisions, directions, regulations, penalties, and forfeitures contained in the act passed in the 17 & 18 Vict. c. 83, relating to adhesive stamps on bills of exchange drawn out of the United Kingdom, as well as in this act, so far as the same are applicable, shall be applied and put in force in respect of the stamp duties on bills of exchange by this act granted, as fully and effectually as if the same were herein repeated and enacted.

14. If any person shall fraudulently remove, or cause to be removed, or assist in removing, from any instrument, document, or writing of any kind, any adhesive stamp, or shall affix any stamp which shall have been so removed to any other instrument, document, or writing chargeable with stamp duty, or to any paper, with intent that such stamp might be used again; or if any person shall sell, or offer for

sale, or utter any stamp, or shall utter any instrument, document, or writing with any stamp thereon which shall have been so as aforesaid removed, knowing the same to have been removed, or shall practise or be concerned in any fraudulent act, contrivance, or device not specially provided for, with intent to defraud her Majesty of the duty, he shall forfeit, over and above any other penalty to which he may be liable, the sum of 50*l.*

15. Where an instrument or writing chargeable under this act with the duty of 6*d.*, as an agreement, shall be unstamped, and it shall appear thereby that the matter thereof is under the value of 20*l.*, the penalty payable to her Majesty, her heirs or successors, on stamping the same, shall be 20*s.* over and above the said duty, in lieu of the penalty now by law payable on stamping an agreement under hand only.

#### SCHEDULE

*Referred to, containing the Duties imposed by this Act.*

**AGREEMENT** for a lease or tack of any lands, tenements, hereditaments, or heritable subjects for any term not exceeding seven years; and agreement, minute, or memorandum of agreement, containing the terms and conditions on which any lands, tenements, hereditaments, or heritable subjects are let, held, or occupied for any such terms as aforesaid—The same duty as on a lease or tack for the term, rent, consideration, and conditions mentioned in such agreement, minute, or memorandum.

Provided that any lease or tack of the same lands, tenements, hereditaments, or heritable subjects afterwards made, in pursuance of and conformably to any such agreement, minute, or memorandum, which shall have actually paid the duty payable on such lease or tack as aforesaid, shall not be chargeable with any higher stamp duty than 2*s.* 6*d.*, exclusive of progressive duty, notwithstanding any variation in the terms or conditions only, not affecting the stamp duty; and in any such case the lease or tack shall, if required for the sake of evidence, be stamped with a particular stamp for denoting or testifying the payment of the full and proper stamp duty on the agreement, minute, or memorandum, on the same and the agreement, minute, or memorandum being produced, and appearing to be executed or signed, and duly stamped in all other respects.

**AGREEMENT**, or any minute or memorandum of an agreement, made in England or Ireland under hand only, or made in Scotland without any clause of registration, and not otherwise charged nor expressly exempted from all stamp duty, where the matter thereof shall be of the value of 5*l.* or upwards, whether the same shall be only evidence of a contract, or obligatory upon the parties from its being a written instrument; together with every schedule, receipt, or other matter put or indorsed thereon or annexed thereto—6*d.*

And where the same shall contain 3160 words or upwards, then for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further progressive duty of 6*d.*

Provided always, that where divers letters shall be offered in evidence to prove any agreement between the parties who shall have written such letters, it shall be sufficient if any of such letters shall be stamped with a duty of 1*s.*, although the same shall in the whole contain any quantity of words exceeding 3160.

**BILL OF EXCHANGE**, Draft, or Order for the payment of money exceeding 4000*l.*, now chargeable with the stamp duty of 2*l.* 5*s.*—

For every 1000*l.* or part of 1000*l.* of the money thereby made payable—10*s.*

**BILL OF EXCHANGE**, (foreign), drawn in a set of three or more, for the payment of money exceeding 4000*l.*, where every bill of the set is now chargeable with the stamp duty of 15*s.*—

Every bill of the set, for every 1000*l.* or part of 1080*l.* of the money thereby made payable—3*s.* 4*d.*

**BILL OF EXCHANGE**, Draft, or Order, (foreign), drawn or indorsed out of the United Kingdom, for the payment of money on demand—The same duty as on an inland bill of exchange for the payment of money otherwise than on demand, according to the amount thereby made payable.

All bills, drafts, or orders for the payment by any banker, or person acting as a banker, of any sum of money, though not made payable to the bearer or to order, and whether delivered to the payee or not; and all writings or documents entitling, or intending to entitle, any person whatever to the payment from or by any banker, or person acting as a banker, of any sum of money, whether the person to whom payment is to be made shall be named or designated therein or not, or whether the same shall be delivered to him or not, shall respectively be deemed to be bills, drafts, or orders for the payment of money chargeable with stamp duty, as if the same had been made payable to bearer or to order.

Provided always, that any one document or writing, although directing the payment of several sums of money to different persons, shall be chargeable with stamp duty as one order only.

#### Exemptions.

Any draft or order drawn by any banker upon any other banker, not payable to bearer or to order, and used solely for the purpose of settling or clearing any account between such bankers.

Any letter written by a banker to any other banker directing the payment of any sum of money, the same not being payable to bearer or to order, and such letter not being sent or delivered to the person to whom payment is to be made, or to any person on his behalf; and all warrants or orders for the payment of any annuity granted by the Commissioners for the Reduction of the National Debt, or for the payment of any dividend or interest on any share in the government or parliamentary stocks or funds, and all drafts or orders drawn by the Accountant-General of the Court of Chancery in England or Ireland, shall be exempt from all stamp duty.

**COPY.**—Certified copy or extract of or from any register of births, baptisms, marriages, deaths, or burials—1*d*.

The said duty to be paid by the person requiring any such copy or extract.

#### Exemptions.

Copies of entries of baptisms, marriages, and burials transmitted to the registrar of the diocese, in pursuance of the 52 Geo. 3, c. 146.

Certified copies of registers sent by superintending registrars to the general registrar, in pursuance of the 6 & 7 Will. 4, c. 86.

And copies or extracts made or given under or in pursuance of the 7 Vict. c. 15, to amend the laws relating to labour in factories.

**COST-BOOK MINES.**—Any note, instrument, or writing requesting or authorising the purser or other officer of any mining company conducted on the cost-book system to enter or register any transfer of any share or shares or part of a share in any mine, or any notice to such purser or officer of any such transfer—6*d*.

**DECLARATION** in lieu or in the nature of an affidavit, in any case where, if the same were an affidavit, it would be chargeable with any stamp duty—The same duty as would be chargeable on such affidavit.

**DELIVERY ORDER.**—Any writing or document commonly called a delivery order, or by whatever name the same shall be designated, entitling or intended to entitle any person therein named, or his assigns, or the holder thereof, to the delivery of any goods, wares, or merchandise of the value of 40*s*. or upwards, lying in any dock or port, or in any warehouse in which goods are stored or deposited on rent or hire, or upon any wharf, such writing or document being signed by or on behalf of the owner of such goods, wares, or merchandise, upon the sale or transfer of the property therein—1*d*.

**DOCK WARRANT.**—Any warrant or document commonly called a dock warrant, or any other writing or document, by whatever name the same shall be designated, which shall evidence the title of any person therein named, or his assigns, or the holder thereof, to the property in any goods, wares, or merchandise lying in any dock or warehouse, or upon any wharf, such writing or document being signed or certified by or on behalf of the company or person in whose custody such goods, wares, or merchandise may be—3*d*.

#### Exemption.

Any writing or document given by any inland carrier, acknowledging the receipt of goods conveyed by such carrier.

**LETTER or POWER of ATTORNEY** for the sale, transfer, or acceptance of any of the government or parliamentary stocks or funds not exceeding in value 20*l*.; or for the receipt of any sum of money, or any cheque, note, or draft for any sum of money, not exceeding 20*l*.; or dividends or interest of any such stocks or funds, or any other periodical payments, not exceeding the annual sum of 10*l*.—5*s*.

#### CAP. XVI.

An Act to make further Provision concerning Mortgages and other Dispositions of Property belonging to Municipal Corporations in England and Ireland. [15th May, 1860.]

1. *Treasury, in approving mortgages by municipal corporations, may require money borrowed to be repaid within a limited time, by instalments or by a sinking fund, or by both.*
2. *How sinking fund to be raised.*
3. *When money paid into the Bank, under any act of Parliament, for purchase of lands, &c. of a municipal corporation, is paid out, Treasury may require provision to be made for replacing the amount. Not to apply to money when provision for its application is contained in any local act.*
4. *Treasury may, where they authorise a sale of land of any municipal corporation, direct investment of proceeds.*
5. *Power to apply certain investments for the benefit of the borough. Proviso setting aside, in certain cases, direction as to investment of proceeds.*
6. *Provision for cases of mortgage, &c. before the passing of this act.*
7. *Penalty for misappropriation of monies, as stated in the 20 & 21 Vict. c. 54.*
8. *Councils of cities or boroughs may acquire lands, &c. with the consent of the Treasury.*
9. *Answer of the Treasury to applications of the council to be published &c.*
10. *Corporations may submit schemes to Commissioners of Treasury for payment of borough mortgage debt.*
11. *As to payment of debts due under authority of acts of Parliament.*
12. *Power of local boards in boroughs.*
13. *Not to affect powers under local acts.*
14. *Act to be construed with the 5 & 6 Will. 4, c. 76, and the 3 & 4 Vict. c. 108, (Ireland).*
15. *Short title.*

1. In any case where the Commissioners of her Majesty's Treasury approve of any mortgage of any hereditaments of the body corporate of any borough, the said commissioners may, as a condition of their approval, require that the money borrowed on the security of such mortgage shall be repaid, with all interest thereon, in thirty years, or any less period, and either by instalments or by means of a sinking fund, or both, as the said commissioners may think fit; and in every such case the sums required for providing for the repayment of the principal and interest of the money borrowed shall by virtue of this act become charged upon the hereditaments comprised in such mortgage, (without prejudice to the security thereby created), or any other hereditaments (if any) of the said body corporate, or the borough fund, or the borough or other rates legally applicable for the payment or discharge of the money borrowed, or the expenses which such money may be borrowed to defray, or on all or any of the securities aforesaid, as the said commissioners may direct.

2. When any money to be borrowed as aforesaid is directed to be repaid by means of a sinking fund, the council of the borough shall, out of the rents and profits of the hereditaments, or out of the borough fund or rates on which the sums required for such sinking fund are charged under this act, invest or cause to be invested such sums, and at such times and in such Government annuities, as the said commissioners may direct, and shall also from time to time invest or cause to be invested in like manner all dividends of such annuities, so as to accumulate at compound interest, and all annuities

in which such investments are made shall, in the books of the Governor and Company of the Bank of England and of the Governor and Company of the Bank of Ireland respectively, be placed to the account of the body corporate, and "In the Matter of the Municipal Corporation Mortgages, &c. Act, 1860," and the dividends of such annuities shall be paid to such person or persons as the said council, by power of attorney under the corporate seal of the borough, from time to time appoint, and shall be invested as herein directed; but the annuities to be purchased shall not be sold or transferred without the consent in writing of the said commissioners, addressed to the chief accountant of the Bank of England or of the Bank of Ireland, (as the case may require); and the direction in writing of the council of the borough, by power of attorney under the corporate seal of the borough, with such consent in writing of the said commissioners, shall be sufficient authority to the Governor and Company of the Bank of England or of the Bank of Ireland (as the case may be) for permitting the transfer of such annuities, or any part thereof.

3. Where any purchase money or compensation has been paid into the Bank of England or Ireland, under any act of Parliament, in respect of any hereditaments, or any interest therein, purchased or taken from any such body corporate, or in respect of any permanent damage to any land of any such body corporate, and the said commissioners approve of the payment of such money or compensation, or of any money to arise from the sale of any Government securities in which the same may have been invested, to such body corporate or their treasurer, the said commissioners may, as a condition of their approval, require provision to be made for raising, in manner hereinbefore provided with respect to a sinking fund for repayment of money borrowed on mortgage, and investing in Government annuities, a sum equivalent to the amount of money so paid to such body corporate or their treasurer; and the provisions hereinbefore contained, in the case of a sinking fund, as to the mode of investing, payment of dividends, and transfer of annuities, shall be applicable in the case of investments under this provision; and the said commissioners shall, when it appears to them that an amount of annuities equivalent to the amount paid as aforesaid has been raised by investment under this enactment, direct that the accumulation shall cease; and such annuities and the dividends thereof shall thenceforth be applicable as the same would have been if such annuities had arisen from investment under the act of Parliament under which such purchase money or compensation as aforesaid became payable: provided always, that this section shall not apply to any money payable to a body corporate, when provision for the application of such money, or of the price or compensation from which such money has been derived, is contained in any local act of Parliament relating thereto, and the money is to be paid to such body corporate, to be applied in conformity with such provision.

4. Where the said commissioners approve of the sale of any hereditaments, or any interest therein, of any such body corporate, their approval may be subject to such conditions for and in relation to the investment of the proceeds of such sale for the benefit of such body corporate as the said commissioners may see fit; and where they direct the same to be invested in Government annuities, the provisions hereinbefore contained as to the mode of investing, payment of dividends, and transfer of such annuities, shall be applicable, but not so as to render necessary any accumulation; or if the said commissioners see fit to consent to the application of the proceeds of such sale, or any part thereof, for the benefit of the inhabitants of the borough, they may, as a condition of their consent, require the like provision to be made as they are authorised to require in the case of their approval of payment to any such body corporate or their treasurer as hereinbefore mentioned; and this enactment shall apply as well to any money received for equality of exchange by any such body corporate as to the proceeds of the sale of any hereditaments or interest in hereditaments of any such body corporate.

5. The said commissioners may at any time consent to the application of any annuities arising from investments under either of the two last preceding sections, or of the monies to arise from the sale thereof, or any part thereof respectively, for the benefit of the inhabitants of the borough, and, as a condition of their consent, may require the like provision to be made as they are authorised to require in the case of their approval of payment to any such body corporate or their

treasurer as hereinbefore mentioned, and so from time to time, as often as the said commissioners think fit, and the provisions of this act shall be applicable accordingly: provided always, that nothing in this act shall be deemed to make it imperative on the said commissioners to require such provision as aforesaid as a condition of their assent to the application of such annuities or monies, or to the payment of any purchase money or compensation in respect of hereditaments of a body corporate, (or money to arise from the sale of investments thereof), to such body corporate or its treasurer, where, by reason of the application of such annuities or monies to improvement of the property of such body corporate, or for the permanent benefit of the borough or otherwise, under the special circumstances of the case, the commissioners in their discretion think fit to dispense with such provision.

6. Where, before the passing of this act, the Commissioners of her Majesty's Treasury have approved of any mortgage of the hereditaments of the body corporate of any borough, and on such approval have required a sinking fund to be formed from time to time in the name of trustees, or have approved of the payment to any such body corporate or their treasurer of any such purchase money or compensation as aforesaid, or of any money arising from the sale of any Government securities in which the same may have been invested, and have on such approval required provision to be made for raising, by means of investments in the names of trustees, an amount equivalent to the amount paid with such approval to such body corporate or their treasurer, or have approved of the sale or alienation of any hereditaments or interest therein of any such body corporate, and have required on such approval the investment of the proceeds of such sale in the names of trustees, the said commissioners may require any securities in which any such investments may have been already made to be transferred into the name of such body, and "In the Matter of the Municipal Corporation Mortgages, &c. Act, 1860," or may require any money applicable for the purposes of such sinking fund to be invested in the purchase of Government annuities, in the name of such body, and "In the Matter of the Municipal Corporation Mortgages, &c. Act, 1860;" and the order in writing of the said commissioners for that purpose shall be a sufficient discharge to such trustees from all claims in respect of the transfer of such securities, in pursuance of such order; and the said commissioners may, in the respective cases aforesaid, give such directions as they might give in the analogous cases hereinbefore provided for, arising after the passing of this act, or as near thereto as the circumstances of the case may require; and the provisions of this act shall be applicable accordingly.

7. If any person authorised to receive the monies to arise from the sale of any annuities or securities purchased or transferred under this act, or any dividends, or any other such money as aforesaid, appropriate the same otherwise than as directed by this act, or by the said commissioners in pursuance thereof, he shall be guilty of a misdemeanour, and shall be subject in respect thereof to the provisions of the act of the session holden in the 20 & 21 Vict. c. 54, applicable to any person guilty of a misdemeanour under that act.

8. In every case in which the council of any city or borough in England, the body corporate of which has not power to purchase or acquire land and hereditaments, or to hold land in mortmain, deem it expedient to purchase or otherwise acquire, for public purposes, any hereditaments, such council shall represent the circumstances of the case to the Commissioners of her Majesty's Treasury, and it shall be lawful for such council, with the approbation of the said commissioners, to purchase or acquire any hereditaments, in such manner, and on such terms and conditions, as may have been approved of by the said commissioners, and such hereditaments may be conveyed to and holden by the body corporate of such borough accordingly; and in any such case as aforesaid, and also in any other case where the said commissioners are satisfied, upon representation of the circumstances, that all or any part of the purchase money of any hereditaments proposed to be purchased for public purposes by the council of a borough should be raised by mortgage or charge as hereinbefore mentioned, the council may, with the approbation of the commissioners, charge and make liable, by way of mortgage or otherwise, the hereditaments so to be purchased, or any other hereditaments of the body corporate, or the borough fund, or borough rates of the borough, or all or any

of the securities aforesaid, with the payment of any money necessary for effecting such purchase, and interest; and the provisions hereinbefore contained, with reference to the approval of mortgages, shall be applicable in the case as well of charge on the borough rates or borough fund as of mortgages under this provision; provided that notice of the intention of the council to make such application shall be given, and a copy of the memorial intended to be sent be open to inspection, as by law required in the case of a like application in relation to a disposition of hereditaments.

9. Where any application by the council of any borough is made for the approbation of the said commissioners to any proposed disposition, purchase, or acquisition of any property, and the said commissioners either altogether refuse the application, or grant their approbation conditionally, or otherwise qualify the same, notice of the correspondence between the said commissioners and the council shall forthwith and for one month be fixed on the outer door of the town hall, or in some public and conspicuous place within the borough; and a copy of such correspondence shall, during the same period, be kept in the town clerk's office, and be freely open to the like inspection as by law provided with respect to the copy of the memorial containing such application required to be kept in such office.

10. Whereas, in certain boroughs, mortgage debts have been heretofore incurred, for the payment and discharge of which no adequate legal provision now exists: it shall be lawful for the corporation of any such borough to submit to the Commissioners of her Majesty's Treasury any scheme for the discharge of any such debts by instalments, or by a sinking fund, or by both, extending over any term of years; and if the said commissioners approve of such scheme, the sums required for providing for the discharge of the debt to which such scheme relates, in the manner proposed therein, shall, by virtue of this act, become charged upon all or any of the hereditaments of the body corporate, or the borough fund, or the borough rates, or any other rates which would have been applicable to or towards the discharge of such debts, or on all or any of the securities aforesaid, as the said commissioners may approve and direct; and the provisions hereinbefore contained applicable where provision is made for repayment of money borrowed on mortgage by a sinking fund and instalments, or both, except the limitation to a period of thirty years, shall be applicable to the provision for the discharge of a mortgage debt under this provision; provided that notice of the intention of the council to make application to the said commissioners for the approval of any such scheme shall be given, and a copy of the memorial intended to be sent shall be open to inspection, in like manner as in cases of application to the commissioners for their approval of a disposition of hereditaments.

11. And whereas in certain boroughs sundry debts have from time to time been incurred under the authority of acts of Parliament, with different periods assigned for the discharge of the same: be it enacted, that it shall be lawful for the corporations of such boroughs respectively, with the consent of the Commissioners of her Majesty's Treasury, and with the consent in writing of the persons or bodies corporate to whom such debts respectively may be owing, previously obtained, to consolidate all such sundry debts into one, and thereon to make provision for the discharge of such consolidated debt, by annual instalments or by a sinking fund, or by both, extending over a period not exceeding thirty years, and to make such annual instalments or payments a legal charge upon the borough fund or the borough rates, or any other rates which would have been applicable to or towards the discharge of such debts, or on all or any of the securities aforesaid, as the said commissioners may approve and direct: provided that notice of the intention of the council to make application to the said commissioners for the purpose aforesaid shall be given, and a copy of the memorial intended to be sent shall be open to inspection, in like manner as in cases of application to the commissioners for their approval of a disposition of hereditaments.

12. Where, in any borough subject to the provisions of the act passed in the session holden in the 5 & 6 Will. 4, c. 76, and intitled "An Act to provide for the Regulation of Municipal Corporations in England and Wales," a surplus is standing to the credit of the borough fund arising from the rents and profits of the property of the corporation, and not from a borough rate, and such borough is a district within

the meaning of the Public Health Act, 1846, the corporation, acting as the local board of health of such borough, may, with the consent of such corporation, apply such surplus in payment of any expenses that have been previously to the passing of this act or may hereafter be incurred by them, acting as the local board of health of such borough, in the improvement of the borough or of any part thereof, by drainage, enlargement of streets, or otherwise, in pursuance of the Public Health Act, 1846, and the Local Government Act, 1858, or of one of such acts.

13. Provided always, that nothing in this act shall repeal, abridge, or affect any power or authority of any body corporate, or the council of any borough, under any local act of Parliament relating to such body corporate or borough.

14. This act shall, as regards England, be construed with the act of the session holden in the 5 & 6 Will. 4, c. 76, as one act; and shall, as regards Ireland, be construed with the act of the session holden in the 3 & 4 Vict. c. 108.

15. This act may be cited as "The Municipal Corporation Mortgages, &c. Act, 1860."

#### CAP. XVII.

An Act to authorise the Inclosure of certain Lands, in pursuance of a Report of the Inclosure Commissioners for England and Wales. [15th May, 1860.]

- Sect. 1. Inclosures in schedule may be proceeded with.  
2. Short title.

#### SCHEDULE.

Inclosure.	County.	Date of Provisional Order.
Ashley .. .. .	Southampton ..	June 2, 1859.
Horsted Keynes Broadhurst	Sussex .. ..	May 18, 1859.
Easington .. .. .	York .. ..	July 7, 1859.
Stokerow .. .. .	Oxford .. ..	July 21, 1859.
Rhos-y-Gad Common ..	Anglesey .. ..	July 28, 1859.
Higside Pasture .. ..	York .. ..	Nov. 17, 1859.
Llanvihangel-y-Croyddin and Gwnws ..	Cardigan .. ..	Dec. 15, 1859.
Ven Ottery .. .. .	Devon .. ..	Nov. 24, 1859.
Boughrood & Llanstephan	Radnor .. ..	Dec. 22, 1859.
Battle Common .. ..	Brecon .. ..	Dec. 22, 1859.
Hurstley Common .. ..	Hereford .. ..	Nov. 24, 1859.
Kennington & Boughton	Kent .. ..	Jan. 12, 1860.
Aluph .. .. .	Essex .. ..	Dec. 22, 1859.
Thaxted .. .. .	Brecon .. ..	Dec. 22, 1859.
Broullys Commonable Fields .. .. .	Brecon .. ..	Dec. 22, 1859.

#### CAP. XVIII.

An Act to amend the Acts relating to Marriages in England and Ireland, by extending certain Provisions thereof to Persons professing with the Society of Friends called Quakers. [15th May, 1860.]

The preamble recites stat. 6 & 7 Will. 4, c. 85, and 7 & 8 Vict. c. 81.

Sect. 1. From and after the 30th June, 1860, marriages may be contracted and solemnised according to the usages of the said Society of Friends, commonly called Quakers, in England and Ireland respectively, not only in the case provided for by the said recited provisions, but also in cases where one only, or where neither, of the parties to the marriage shall be a member of the said society: provided always, that the party or parties who shall not be a member or members of the said society shall profess with, or be of the persuasion of, the said society: provided also, that no person who is not a member of the said society shall be married according to the usages thereof unless he or she shall be authorised thereto under or in pursuance of some general rule or rules of the said society in England and Ireland respectively; and a copy of such general rule or rules, purporting to be signed by the recording clerk for the time being of the said society in London and in Dublin respectively, shall be admitted as evidence of such general rule or rules in all proceedings touching the validity of any such marriage.

2. Enactments now in force to extend to every marriage contracted under the authority of this act.

## CAP. XIX.

An Act to extend the Act to facilitate the Improvement of Landed Property in Ireland, and the Acts amending the same, so the Erection of Dwellings for the Labouring Classes in Ireland. [15th May, 1860.]

Sect. 1. Loans may be made out of money granted for the Improvement of landed property in Ireland, for the erection of dwellings for the labouring classes in cases herein stated.  
2. Term of act.

## CAP. XX.

An Act for raising the Sum of Thirteen Million Two Hundred and Thirty Thousand Pounds by Exchequer Bills for the Service of the Year 1860. [15th May, 1860.]

## CAP. XXI.

An Act to amend the Act for better regulating the Business of Pawnbrokers. [15th May, 1860.]

The preamble recites the 29 & 40 Geo. 3, c. 90.

Sect. 1. Upon and from the commencement of this act it shall be lawful for all persons using and exercising the trade or business of a pawnbroker to take one halfpenny for every such note or memorandum as aforesaid where the sum lent shall be less than 10s., anything in the said act contained to the contrary notwithstanding; and the said 6th section of the said act shall be read and construed as if it contained no enactment for the delivery of any note or memorandum gratis.

2. Provided always, that for every such note or memorandum, where the sum lent shall be 10s. or upwards, the respective sums specified in such behalf in the said 6th section shall and may be taken as heretofore.

## CAP. XXII.

An Act to amend the Laws relating to the Customs.

[15th May, 1860.]

Sect. 1. Duty of customs on chicory.

2. As to duties and drawbacks of customs on wine. Power to Commissioners of Customs to limit ports of importation.

3. Power to Commissioners of Inland Revenue to make allowances on wine in stock.

4. Power to Treasury to authorise payment of monies advanced by Commissioners of Inland Revenue.

5. Duties charged upon goods, &c. herein mentioned, imported, to cease on and after the 3rd March, 1860, except as to articles against which other dates are inserted.

6. In lieu of duties on articles under-mentioned, the duties herein named shall be charged until the days hereinafter mentioned; after those days the duties to cease.

7. Duties on paper, &c.

8. In lieu of duties now charged on spirits, the duties herein named to be charged.

9. Duties on articles herein named to cease on and after the 7th March, 1860.

10. In lieu of duties now charged on articles herein named, the reduced duties to be charged on and after the 7th March, 1860.

11. Duties now charged on tea, sugar, &c. continued until the 1st July, 1861.

12. Duties on timber and wood. Drawback on wood goods.

13. Duties on timber to be paid on first importation.

14. Duty on ships.

15. Rates payable on delivery of goods from warehouse for home consumption.

16. Rates on imports as herein stated.

17. Definition of unit of entry.

18. Power to adjust unit of entry.

19. Rates to be paid by stamps.

20. Particulars of free goods inwards.

21. Construction of the term "bill of lading." Bill of lading to be deemed the entry outwards of free goods, but not to include more than one consignment. Penalty.

22. Bills of lading to be delivered within time prescribed. Penalty on failing to comply with foregoing requirements.

23. Bills of lading, &c. relating to goods conveyed by forwarders. Penalty on exporter, &c. failing to comply with requirements hereby made.

24. Meaning of the terms "carrier or forwarder" and "goods," as used in this act.

25. Penalty on exporter, &c. shipping without bill of lading.

26. Master or owner to deliver a manifest of goods shipped.

27. Customs bill of lading, &c. Evidence.

28. Payment of duty on customs bill of lading to be by an adhesive stamp.

29. Customs bill of lading to be valid if not stamped.

30. Averments in Informations, &c.

31. Stamps to be provided by Inland Revenue.

32. Rates to be deemed stamp duties.

33. Customs stamp distributors to be appointed.

34. Inland Revenue to account with Customs the proceeds arising from stamp duties.

35. Allowance for stamps spoiled &c.

36. Where contracts entered into before the 10th February, 1860, deduction to be made in respect of duty.

37. Commencement of act. Short title.

## CAP. XXIII.

An Act to provide for the Consideration of an Ordinance which has been laid before Parliament in a Report of the Oxford University Commissioners. [25th May, 1860.]

Sect. 1. Power to her Majesty to refer the said ordinance and declaration to a committee of Privy Council.

2. Power to parties interested to petition her Majesty in relation to the ordinance.

3. The committee to consider the ordinance and the objections, and report to her Majesty.

4. Ordinance to be laid before Parliament, and, if approved by her Majesty, to be a statute of the college.

## CAP. XXIV.

An Act to remove Doubts as to the Validity of certain Marriages in Extra-parochial Places. [25th May, 1860.]

The preamble recites the 20 Vict. c. 19.

Sect. 1. The authority given by the bishop in consequence of the said recited act for the publication of banns, and the solemnisation of marriages by banns or license, in such church or chapel, shall be construed to extend to and authorise marriages in such churches or chapels between parties both or either of them being resident in such extra-parochial place, and all such marriages so had shall be deemed valid, in like manner as if such extra-parochial place had been a parish: provided that, when the parties to any marriage intended to be solemnised, after publication of banns, shall reside within different ecclesiastical districts, the banns of such marriage shall be published in the church or chapel, authorised under the provisions of the said recited act, in which the marriage is intended to be celebrated, as well as in the chapel of the other district, licensed under the provisions of one of the statutes in such case made and provided, where one of the parties then is resident; and if there be no such chapel, then in the church or chapel in which the banns of such last-mentioned party might be legally published if no such statute had been passed.

2. The provisions of stat. 6 & 7 WILL. 4, c. 85, s. 25, shall apply to such marriages as in this act mentioned.

## CAP. XXV.

An Act to apply the Sum of Nine Million Five Hundred Thousand Pounds out of the Consolidated Fund to the Service of the Year 1860. [25th May, 1860.]

## CAP. XXVI.

An Act to remove Doubts as to the Application of the Common Lodging Houses Acts to Ireland, and to amend the Provisions of the same so far as they relate to Ireland. [25th May, 1860.]

Sect. 1. Short title.

2. Recited acts and this act to be construed as one, and to extend to Ireland.

3. Explanation of certain terms in recited acts and this act.

4. Local authority to make by-laws respecting common lodging-houses, but such by-laws to be confirmed by the Lord Lieutenant. Old by-laws to continue until new ones are confirmed.

5. Copy of by-laws to be received in evidence.
6. Penalties imposed by the 14 & 15 Vict. c. 28, to apply to by-laws made under this act.
7. Expense to be levied off the whole of an electoral division.
8. Not to affect provisions of the 17 & 18 Vict. c. 103.
9. Former proceedings validated.
10. Extent of act.

## CAP. XXVII.

An Act for granting to Her Majesty certain Duties on Wine Licenses and Refreshment Houses, and for regulating the Licensing of Refreshment Houses and the granting of Wine Licenses. [14th June, 1860.]

Sect. 1. From and after the 1st July, 1860, certain duties to be charged for licenses herein mentioned.

2. Powers and provisions of Excise Acts to apply to the duties granted by this act.

3. Every person keeping a shop entitled to take out a license to retail wine not to be consumed on the premises.

4. What shall be deemed selling by retail.

5. Permitting drinking wine in a neighbouring house, shed, &c., with intent to evade the provisions of this act, to be deemed drinking on the premises. Penalty.

6. Persons keeping houses, &c. herein named required to take out licenses.

7. Confectioners and eating-house keepers entitled to take out licenses to sell wine to be drunk on the premises.

8. Wine licenses not to be granted for refreshment houses under a certain rent or annual value. Persons disqualified to hold wine licenses.

9. Penalty for keeping a refreshment house without license, 20l.

10. By whom licenses under this act shall be granted. Forms of licenses as in schedule to this act.

11. Licenses: date, expiration, and renewal thereof.

12. On the death of a licensed person, his representative, or widow, or child, may be authorised to continue the business for which the license was granted, for the remainder of the term thereof.

13. Notice of first application for a wine license for a refreshment house to be given to justices, who may object to the granting thereof on grounds to be stated. No notice of objection to be signed &c. until the applicant has been heard against the same.

14. Notice to be given of application for license to retail wine to be consumed on the premises in a house not previously licensed.

15. Justices may object to the renewal of a wine license if they shall see just cause of objection.

16. A list of licenses to be kept by collectors and supervisors for inspection of the justices, and copies of the list to be transmitted to the justices' clerk.

17. In case of complaint, licensed retailers of wine to produce their licenses on requisition of two justices.

18. Constables and police officers empowered to visit licensed refreshment houses. Penalty for refusing them admittance. License to be forfeited on second conviction if justices think fit.

19. Penalty for selling wine by retail without license.

20. Additional penalty on unlicensed persons selling wine.

21. What shall be deemed foreign wine, and what shall be deemed spirits.

22. Licenses to be void on conviction of felony or selling spirits without license.

23. Licensed retailers of wine to make entry of houses, &c. with the excise.

24. Excise officers empowered to enter the premises of licensed retailers of wine.

25. Penalty on persons licensed to retail wine having spirits in their entered premises.

26. Standard measures to be used in the sale of wine.

27. Limitation of hours for opening and closing houses licensed for the sale of wine by retail. Exception in favour of lodgers.

28. Houses licensed for the sale of wine to be closed by order of justices in cases of riot, &c.

29. Penalty on retailers of wine permitting drunkenness, &c. in their houses: first offence: second offence: third offence. Penalty for mixing spirits or drugs in wine, or adulterating wine: first offence: second offence. Penalty on selling wine after conviction of second offence.

30. Penalties other than excise penalties recoverable before two justices in petty sessions, within three months after offence committed: second offence: third offence.

31. Justices may adjudge premises disqualified for sale of wine, on proof that within two years last preceding such third conviction two convictions have taken place.

32. Penalties for offences in refreshment houses.

33. Power to justices to mitigate penalties.

34. Appeal to the sessions against a second or third conviction.

35. Court to adjudge costs of appeal in certain cases.

36. Proceedings on appeal to be carried on by the constable, and the expenses of the prosecution to be charged on county rates.

37. Power to lord mayor, aldermen, or justices of the peace to summon witnesses, and examine them on oath.

38. Penalty on witnesses refusing to attend or to give evidence.

39. Penalty for harbouring constables while on duty.

40. Penalty on drunkards guilty of riotous or indecent behaviour.

41. Penalty on drunken and disorderly persons refusing to quit licensed houses on request. Constables to assist in expelling them, if required.

42. Provisions of the 11 & 12 Vict. c. 43, to be applied in the recovery of penalties under this act.

43. How excise penalties under this act are to be recovered &c.

44. Covenants against houses, &c. being used as public-houses to extend to persons licensed to sell wine under this act.

45. Act not to affect the two Univerities, or the Vintners Company in London, or the borough of St. Albans.

46. Extent of act.

Sect. 1. From and after the 1st July, 1860, there shall be charged, levied, and paid, unto and for the use of her Majesty, her heirs and successors, for and upon the several licenses hereinafter mentioned, the respective rates and duties following; that is to say—

For every license to keep a refreshment house—

If the house and premises in respect of which such license shall be granted shall be under the rent and value of 20l. a year £0 10 6

And if the same shall be of the rent or value of 20l. a year or upwards ..... 1 1 0

And for every license to be granted as herein-after mentioned to any licensed keeper of a refreshment house to sell therein by retail foreign wine to be consumed in such house or on the premises belonging thereto—

If such house and premises shall be under the rent and value of 50l. a year ..... 3 3 0

And if the same shall be of the rent or value of 50l. a year or upwards ..... 5 5 0

And for every license to be taken out by any person for the selling by retail in any shop of foreign and British wine not to be consumed in the house or shop or on the premises where sold—

If the house and premises shall be under the rent and value of 50l. a year ..... 2 2 0

And if the same shall be of the rent or value of 50l. a year or upwards ..... 3 3 0

2. The duties by this act granted shall be deemed to be excise duties, and shall be under the care and management of the Commissioners of Inland Revenue for the time being; and all powers, provisions, and regulations, penalties, and forfeitures contained in or enacted by any act in force in re-



tion to excise duties, shall, in all cases not herein expressly provided for, and so far as the same are not superseded by and are consistent with the express provisions of this act, be duly observed, applied, and put in execution for ascertaining the rent or value of any house or premises in respect of which any license shall be applied for under this act, and for charging, collecting, and securing the said duties hereby granted, and otherwise relating thereto, as fully and effectually as if the same powers, provisions, and regulations, penalties and forfeitures, were repeated and re-enacted in the body of this act with reference to such rent or value, and to the said duties hereby granted.

3. Every person who shall keep a shop for the sale of any goods or commodities other than foreign wine, or who shall have taken out a license as a dealer in wine, (except persons expressly disqualified by this act), shall, without producing or having any other license or authority, be entitled to take out a license under this act to sell by retail, and in reputed quart or pint bottles only; in such shop foreign wine not to be consumed on the premises where sold, anything in any former act to the contrary notwithstanding.

4. Every sale of foreign wine in any less quantity than two gallons, or in less than one dozen reputed quart bottles, at one time, shall be deemed to be a selling by retail.

5. If any person licensed to sell wine not to be consumed on the premises shall, with intent to evade the provisions of this act, take or carry, or authorise or employ, or permit or suffer, any person to take or carry, any wine out of or from the house, shop, or premises of such licensed person, for the purpose of being sold on his account, or for his benefit or profit drunk or consumed, in any other house, or in any tent, shed, or other premises of any kind whatever belonging to such licensed person, or hired, used, or occupied by him, such wine shall be deemed and taken to have been drunk or consumed upon the premises; and the person selling the same shall be subject to the like penalties as if such wine had been actually consumed in any house or upon any premises licensed only for the sale thereof as aforesaid.

6. All houses, rooms, shops, or buildings kept open for public refreshment, resort, and entertainment at any time between the hours of nine of the clock at night and five of the clock of the following morning, not being licensed for the sale of beer, cider, wine, or spirits respectively, shall be deemed refreshment houses within this act, and the resident, owner, tenant, or occupier thereof shall be required to take out a license under this act to keep a refreshment house; and every person who shall keep any house, room, shop, or building for the purpose of selling therein any victual or refreshment to be consumed on the premises where the same shall be sold, (except beer, cider, wine, and spirits sold respectively under a proper license in that behalf), and every person who shall keep any house, room, shop, or building for the consumption therein by the public of any refreshment, (except as aforesaid), although the same shall not be sold therein, may, if he shall think fit, take out a license under this act to keep a refreshment house; and in all proceedings, and upon all occasions whatever, it shall be sufficient to describe, by the term "refreshment house," any house, room, shop, or building in which any such article as aforesaid (except as aforesaid) is sold to be consumed, or is consumed as aforesaid, without further or otherwise designating or describing the same.

7. Every person who shall be licensed to keep a refreshment house, and shall pursue therein the trade or business of a confectioner, or shall keep open such house as an eating-house, for the purpose of selling, to be consumed therein, animal food or other victuals wherewith wine or other fermented liquors are usually drunk, shall be entitled (subject to the terms and conditions of this act, and not being expressly disqualified thereby) to take out a license to sell foreign wine by retail in such refreshment house, to be consumed on the premises where the same shall have been sold, without producing or having any other license or authority than as aforesaid; and every confectioner and eating-house keeper respectively, who shall have taken out such license to retail wine under this act, shall not be subject or liable to any penalty or forfeiture under any other act or acts by reason or on account of his selling wine by retail, or having the same in his possession in his entered premises, anything in any other act or acts to the contrary notwithstanding.

8. Provided always, that no license to sell foreign wine by

retail, to be consumed on the premises, shall be granted for any refreshment house which, with the premises belonging thereto and occupied therewith, shall be under the rent and value of 10*l.* a year, nor for any refreshment house situated in any city, borough, town, or place containing a population exceeding 10,000, according to the then last parliamentary census, if such refreshment house, with the premises belonging thereto and occupied therewith, shall be under the rent and value of 20*l.* a year; and no sheriff's officer, or officer executing the legal process of any court of justice, shall be capable of receiving or using any license under this act to sell wine by retail to be consumed on the premises; and every license which shall be granted contrary hereto shall be void to all intents and purposes.

9. Every person who shall keep a refreshment house for which a license is required by this act, without taking out and having in force a proper license in that behalf granted to him under the authority of this act, shall forfeit a sum not exceeding 20*l.*, which penalty shall be recovered as hereinafter directed.

10. All licenses authorised to be granted under this act shall be granted by and under the hands of the collector or other person having charge of the excise collection, and the supervisor of excise of the district within which respectively the refreshment house or other house or shop for or relating to which any such license shall be required, or by such other person or persons as the Commissioners of Inland Revenue shall appoint or authorise in that behalf, on payment of the duty chargeable for such licenses respectively; and every such license shall be in the form contained in the schedule annexed to this act: provided always, that it shall be lawful for the Commissioners of Inland Revenue from time to time to make such alterations therein as they may deem to be necessary, in consequence of any alteration or amendment of the law, in order to make such form of license conformable to the law for the time being.

11. All licenses which shall be granted under the authority of this act between the 31st March and the 1st May in any year shall be dated on the 1st April; and all licenses which shall be granted at any other time shall be dated on the day on which the same shall be granted; and all such licenses, whensoever granted, shall have effect on and after the day of the date thereof until the 1st April then next following, and shall be renewed annually on payment of the duty by this act charged thereon respectively.

12. Upon the death of any person licensed under this act before the expiration of the license, it shall be lawful for the persons authorised to grant licenses to authorise and empower, by indorsement or otherwise, as the Commissioners of Inland Revenue shall direct, the executors or administrators, or the widow or child, of such deceased person who shall be possessed of and occupy the dwelling-house and premises before used for such purpose, to continue the business for which such license was granted, and to sell in the same house and premises such articles as by the said license are authorised to be sold therein, during the residue of the term for which such license was originally granted, without taking out any fresh license or payment of any additional duty thereon, and the person so authorised and empowered shall then be deemed to be a person licensed under this act, and accordingly subject to the provisions, conditions, regulations, and penalties contained therein.

13. If any person licensed to keep a refreshment house shall be desirous of selling foreign wine by retail to be consumed therein, he shall, previously to the granting to him for the first time of a license for that purpose, fill up and sign a requisition for such license, in such form as the Commissioners of Inland Revenue shall provide in that behalf, specifying therein the true Christian and surname, and place or places of abode during the last six months, of the applicant, the description and situation of the house for which the license is required, and the true yearly rent or annual value thereof; and such requisition shall be made in duplicate, and delivered to the supervisor of excise for the district in which such refreshment house is situated, who shall forthwith deliver or transmit by post one of such duplicates, together with a notice, to the effect hereinafter directed, to the clerk of the special sessions in London, at the Mansion House of the city of London, if the refreshment house shall be situated within the said city or the liberties thereof, or to the clerk to the justices of the court of petty sessions holden for the division or place



within which such refreshment house is situated, if situated elsewhere than as aforesaid; and every such duplicate shall be accompanied by a notice to the lord mayor of the city of London and such justices respectively, signed by the said supervisor, to the effect that a license to retail wine will be granted, pursuant to such requisition, on or immediately after a day to be specified in such notice, not less distant than thirty days from the day of the delivery or transmission of the same, unless in the meantime notice in writing, signed by the said lord mayor, or by the alderman of the ward in which the refreshment house is situated, or by the said justices, or a majority of them, present in petty sessions, as the case may be, shall be received by the said supervisor, to the effect that the said lord mayor, alderman, or justices, as the case may be, doth or do object to the granting of the said wine license, on one or more of the following grounds, specifying the same; that is to say, that the house for which such license is required is not a confectioner's shop, or an eating-house, within the meaning of this act, or not of the yearly rental or annual value required by this act, or that it is a disorderly house, or a house frequented by prostitutes or other disorderly persons, or that it is adjudged disqualified for the sale of wine therein, or that the applicant is disqualified from selling wine under the provisions of this act, specifying the grounds of such disqualification respectively, or that the applicant has within three years been convicted of any offence punishable by imprisonment, or that the applicant, having within three years held a license to keep a beer-house, common inn, ale-house, or victualling-house, has forfeited or been refused a renewal of such license; and if such notice of objection shall be received by the said supervisor within the time limited as aforesaid the said license shall not be granted; but if otherwise, and no such caveat as hereinafter mentioned be received by the said supervisor, then such license shall be granted on payment of the duty by this act charged thereon, provided the applicant shall be entitled to such license under the provisions of this act in other respects: provided always, that no such notice of objection shall be signed or sent by the said lord mayor, alderman, or justices until after they respectively shall have summoned the applicant for such license to shew cause, and shall have heard him against the objection to the granting thereof, or he shall have refused or neglected to attend before them respectively to shew cause, pursuant to their summons; and every such summons shall specify the grounds of such objection; and it shall be lawful for the said lord mayor, alderman, and justices respectively, pending their decision upon any such objection as aforesaid, and before the expiration of the said period of thirty days, to transmit to the said supervisor a notice, by way of caveat, against the granting of such license; and in that case the license shall not be granted if, within the further period of thirty days from the receipt of such caveat, the objection to the granting of the license shall be affirmed by the said lord mayor, alderman, or justices, and notice thereof shall be given to the said supervisor.

14. Provided always, that every person intending to apply for a license to be granted under the authority of this act to retail wine to be consumed on the premises in respect of any house, room, shop, or building not theretofore licensed for the consumption of wine therein, shall affix or cause to be affixed a notice on the door of such house, room, shop, or building, and on the door of the church or chapel of the parish or place in which such house shall be situate, and, where there shall be no church or chapel, on some other public and conspicuous place within such parish or place, on three several Sundays previous to his application for such license, at some time between the hours of ten of the clock in the forenoon and four of the clock in the afternoon, and shall serve a copy of such notice upon one of the overseers of the poor, and upon one of the constables or other peace officers of the said parish or place, fourteen days at the least previous to such application; and every such notice, and the copies thereof, shall be written in a fair and legible hand, or printed, and shall be signed by the party intending to make such application, or by his agent thereto authorized, and shall set forth the situation of the house, shop, or building in a true and particular manner, and the Christian and surname of the party applying, together with the place of his residence, and his trade or calling, during the six months previous to the time of serving such notice, and his intention to

apply for a license to retail wine to be consumed in such house or premises.

15. Provided always, that it shall be lawful for the said lord mayor and alderman, and for any two justices in petty sessions respectively, after any such wine license shall have been granted for any refreshment house within their respective jurisdictions, but three months at least before the expiration of such license, to give notice to the holder thereof to appear before them respectively, and shew cause why an objection (stating the grounds thereof) should not be lodged against a renewal of his license; and if upon the hearing the said lord mayor or alderman, or the justices present in petty sessions, or a majority of them, (as the case may be), shall see just cause of objection on one or more of the grounds mentioned in the preceding clause, they shall give to the said supervisor of the district within which the said refreshment house shall be situated notice of objection against the renewal of such license, and shall specify the grounds of objection in such notice; and on the expiration of such wine license, after such notice as aforesaid given to the supervisor, no renewal thereof shall be granted unless the decision of the said lord mayor or alderman or justices shall be reversed upon an appeal against the same, as hereinafter allowed; (that is to say): provided always, that it shall be lawful for the holder of the said license to appeal against the said decision of the said lord mayor or alderman or justices to the next general or quarter sessions of the peace which shall be holden for the city or county (as the case may be) after the expiration of ten days from the making of such decision, upon giving seven days' previous notice in writing to the said lord mayor or alderman or justices of his intention so to appeal; and the said court of sessions shall hear and finally determine the said appeal, and upon notice of such determination given to the said supervisor, the said license shall be refused or granted conformably therewith.

16. A list or register of every license granted under the authority of this act, specifying the name and place of shop of every person licensed, and the name and description of the house for which such license shall be granted, and whether the license shall be to keep a refreshment house or for the sale of wine therein, shall be kept at the office or dwelling-house of every collector and supervisor of excise in their respective collections and districts; and such list or register shall at all times be produced to, and shall be open to the inspection and perusal of, any justice of the county or place where such license shall be granted, and where such house shall be situate, and a copy of such list and register shall, once in every six months, be transmitted by every collector and supervisor of excise to the clerk of the magistrates for the district in which such license shall be granted, and any copy or extract of or from such list or register, which shall be at any time required by the clerk to the said justices, shall be given to him by such collector or supervisor whenever thereto required.

17. In case any complaint shall be laid before two justices of the peace against any person licensed to sell wine by retail under the authority of this act, for any offence against the tenor of his license or against this act, it shall be lawful for the said two justices (if they shall think fit) to require such person to produce his license before them, for their examination; and if such person shall wilfully neglect or refuse so to do, he shall forfeit and pay any sum not exceeding £4, as the said justices shall think proper.

18. It shall be lawful for all constables and officers of police, when and so often as they shall respectively think proper, to enter into all houses licensed as refreshment houses under the authority of this act, and into and upon the premises belonging thereto; and if any person licensed to keep a refreshment house, or any servant or other person in his employ or by his direction, shall refuse to admit or shall not admit any constable or officer of police demanding admittance into such refreshment house or upon such premises, the person so licensed shall for the first offence forfeit and pay any sum not exceeding £4, together with the costs of conviction, to be recovered before one or more justices of the peace, on information or complaint made within seven days next after the day on which such offence was committed; and it shall be lawful for any two or more justices before whom any such person shall be convicted for the second time of any such offence to adjudge (if they shall so think fit) the license or licenses of such offender in respect of such refreshment

house to be forfeited, and that he shall be disqualified from having any license granted to him under this act in respect of such house for the space of two years, or for such shorter space of time as they may think proper to adjudge.

19. Every person who shall sell any wine by retail, whether to be consumed on the premises or not, without having a proper license in force duly authorising him in that behalf, shall, over and above any other penalty to which he may be liable, forfeit the sum of 20*l*., which shall be denominated an excise penalty.

20. If any person, not being duly licensed to sell wines, shall retail any wine, either to be consumed in or upon the house or premises or off the premises where sold, or if any person shall sell any wine to be consumed in or upon the house or premises where sold without being licensed so to do, such person shall, in addition to any excise penalty to which he may thereby become subject, forfeit the sum of 5*l*.

21. All liquor which shall be sold or offered for sale by any person, whether licensed under this act or not, as being foreign wine, or under the name by which any foreign wine is usually designated or known, shall, as against the person who shall so sell or offer the same for sale, be deemed and taken to be foreign wine; and any fermented liquor containing a greater proportion than forty per centum of proof spirit shall be deemed and taken to be spirits.

22. Every person who shall be convicted of felony or of selling spirits without license shall for ever thereafter be disqualified from selling wine by retail, and no license to sell wine by retail under this act shall be granted to any person who shall have been so convicted as aforesaid; and if any person shall, after having been so convicted as aforesaid, take out or have any license to sell wine by retail under this act, the same shall be void to all intents and purposes; and every person who shall, after being convicted as aforesaid, sell any wine by retail in any manner whatsoever, shall incur the penalty for so doing without license; and in all such cases, in the prosecution for the recovery of such penalty, a certificate from the clerk of assize or the clerk of the peace, or person acting as such, of any such conviction as aforesaid, shall on the trial in such prosecution be legal evidence thereof.

23. Every person licensed to retail wine under this act shall, in manner directed by the laws of excise in that behalf, make entry with the proper officer of excise of every house, cellar, room, and place for storing, keeping, or retailing of wine, on pain of forfeiting the penalties imposed by the statutes in that behalf for making use of any unentered room or place; and all wine found in any such unentered house, cellar, room, or place shall be forfeited.

24. It shall be lawful for any officer of excise, during the hours in which any house licensed for the retail of wine to be consumed on the premises may be kept open, to enter into every house, cellar, room, or place entered for the storing, keeping, or retailing of wine to be consumed as aforesaid, and to make search for and seize all spirits which may be found in any such house, cellar, room, and place, and to examine all wine kept therein.

25. If any person licensed to retail wine under this act shall receive into or keep or have in his possession, in any cellar, room, or place entered for storing, keeping, or retailing wine, any spirits, he shall, in addition to all other penalties, forfeit the sum of 50*l*., which shall be denominated an excise penalty; and all spirits found in any such entered cellar, room, or place shall be forfeited; and on conviction of any such licensed person in any penalty for having spirits in his possession, or for selling or retailing spirits, the license of such person for retailing wine shall become null and void, and shall be so adjudged.

26. Every person licensed under this act to sell wine by retail shall, if required, sell or otherwise dispose of all such wine (except wine in bottle, and quantities less than half a pint) by the gallon, quart, pint, or half pint measure, sized or marked according to the standard, and shall also, if required by any guest or customer purchasing such wine, retail the same in a vessel sized or marked according to such standard; and in default thereof he shall for every such offence forfeit the illegal measure, and pay a sum not exceeding 40*s*., together with the costs of the conviction, to be recovered by information or complaint made within seven days next after that on which the offence was committed, before two justices of the peace; and such penalty shall be

over and above all penalties to which the offender may be liable under any other act.

27. No person licensed under this act to sell wine by retail shall have or keep his house open for the sale of wine, nor shall sell any wine, nor shall suffer any wine to be drunk or consumed in or at such house at any time before the hour of five of the clock in the morning, nor after twelve of the clock at night, of any day in the week, in the cities of London or Westminster, or within the boundaries of any of the boroughs of Marylebone, the Tower Hamlets, Lambeth, or Southwark, as defined by an act passed in the 2 & 3 Will. 4, c. 64; nor after eleven of the clock at night within any parish or place within the bills of mortality, or within any city, cinque port, town corporate, parish, or place, the population of which, according to the last parliamentary census, shall exceed 2500, or within one mile, to be measured as aforesaid, from any polling place used at the last election for any town having a like population, and returning a member or members to Parliament, nor after ten of the clock at night elsewhere; nor shall any such house be open for the sale or consumption therein of any article whatever at any time during which the houses of licensed victuallers now are or hereafter shall be closed on any Sunday, Good Friday, or Christmas Day, or any day appointed for a public fast or thanksgiving, nor at any time between the hours of one and four of the clock in the morning on any day whatever; and if any person licensed as aforesaid shall keep his house open for selling or shall sell any wine, or suffer any wine to be drunk or consumed in or at such house, at any other time than as hereinbefore prescribed and directed, or shall keep his house open as aforesaid, contrary to any prohibition in this clause contained, he shall forfeit the sum of 40*s*. for every offence; and every separate sale shall be deemed a separate offence: provided always, that nothing in this clause contained shall extend to prevent the keeper of a refreshment house, being duly licensed to retail wine, from selling to any lodger therein any wine at any hour of the day or night, either on Sunday or any other day.

28. It shall be lawful for any two justices of the peace acting for any county or place where any riot or tumult shall happen or be expected to take place, to order or direct that every person licensed under the authority of this act to sell wine by retail in any house within their respective jurisdiction, in or near the place where such riot or tumult shall happen or be expected to take place, shall close his house at any time which the said justices shall order or direct; and every such person who shall keep open his house at or after any hour at which such justices shall have so ordered or directed such house to be closed, shall be taken and deemed to have not maintained good order and rule therein, and to be guilty of an offence against the tenor of the license granted to him.

29. Every person licensed under this act to sell wine by retail who shall permit any person to be guilty of drunkenness or other disorderly conduct in the house or premises mentioned in such license, or who shall himself be guilty of any such disorderly conduct, shall for every such offence forfeit the respective sums following; and every person who shall transgress or neglect, or shall be a party in transgressing or neglecting, the conditions and provisions specified in such license, or shall allow such conditions or provisions to be in any way transgressed or neglected in the said house or premises, shall be deemed guilty of disorderly conduct; and every person so licensed who shall permit or be guilty of any such disorderly conduct shall for the first offence forfeit any such sum, not less than 40*s*. nor more than 5*l*., as the justices before whom he shall be convicted of such offence shall adjudge, and for the second offence any sum not less than 5*l*. nor more than 10*l*., and for the third such offence any sum not less than 20*l*. nor more than 50*l*.; and it shall be lawful for the justices before whom any such conviction for any such second or third offence shall take place to adjudge, if they shall so think fit, that such offender shall be disqualified from selling wine by retail for any term not exceeding five years next ensuing such conviction; and if any person so licensed as aforesaid shall mix or cause to be mixed any spirits, or any drugs or other pernicious ingredients, with any wine sold in his house or premises, or shall fraudulently dilute or in anyways adulterate any such wine, or shall sell or offer for sale any wine which, to the knowledge of such person, has been so mixed, diluted, or adulterated, he shall

for the first offence forfeit any sum not less than 10*l.* nor more than 20*l.*, as the justices before whom he shall be convicted of such offence shall adjudge, and for the second such offence he shall be disqualified from selling wine by retail for the term of five years, or forfeit any sum of money not less than 20*l.* nor more than 50*l.*, at the discretion of the justices before whom he shall be adjudged guilty of such second offence; and if any offender convicted of such second offence as last aforesaid shall during such term of five years sell any wine by retail, either in the house and premises mentioned in his license or in any other place, he shall forfeit any sum not less than 25*l.* nor more than 50*l.*, and shall be subject to a like penalty at any and every house or place where he shall commit such offence.

30. All penalties under this act, except those denominated excise penalties, shall be recovered upon the information or complaint of a constable or other peace-officer before two justices acting in petty sessions, and shall be prosecuted and proceeded for within three calendar months next after the commission of the offence in respect of which such penalty shall be incurred, or within such shorter time as may be herein limited with regard to any particular penalty; and every person licensed under this act to retail wine to be consumed on the premises, who shall be convicted before two justices so acting in and for the division or place in which shall be situate the house kept, or theretofore kept, by such person, of any offence against the tenor of the license to him granted under this act, or of any offence for which any penalty is imposed by this act, shall, unless proof be adduced to the satisfaction of such justices that such person had been theretofore convicted within the space of twelve calendar months next preceding of some offence against the tenor of his license or against this act, be adjudged to be guilty of a first offence against the provisions of this act, and to forfeit and pay any penalty by this act imposed for such offence, or, if no specific penalty be so imposed, then any sum not exceeding 5*l.*, together with the costs of the conviction; and if such proof as aforesaid shall be adduced that such person had been previously convicted within the space of twelve calendar months next preceding of one such offence only, such person shall be adjudged to be guilty of a second offence against the provisions of this act, and to forfeit and pay any penalty by this act imposed for such offence, or, if no specific penalty be so imposed, then any sum not exceeding 10*l.*, together with the costs of the conviction; and if such proof as aforesaid shall be adduced that such person had been previously convicted, within the space of eighteen calendar months next preceding, of two such separate offences, and if proof shall be adduced to the satisfaction of the justices that such person so charged is guilty of the offence charged against him, such person shall be adjudged to be guilty of a third offence against the provisions of this act, and to forfeit any penalty imposed by this act in respect of such offence; or, if no such specific penalty shall be so imposed, then to forfeit and pay the sum of 50*l.*, together with the costs of the conviction.

31. It shall be lawful for the justices before whom any person holding a license under this act for the sale of wine by retail shall be convicted of any offence against the tenor of the said license, or for which any penalty is imposed by this act, if proof shall be adduced to their satisfaction that within two years last preceding such conviction two convictions for any such offence of the same person, or of any other person licensed in respect of the same house or premises, have taken place, to declare the license granted in respect of the said house or premises forfeited and void, and to adjudge that no license for the sale of wine shall be granted to any person whatever in respect of the said house or premises for the term of three years from the date of such adjudication, of which adjudication the justices shall give notice to the supervisor of excise; and any license for the sale of wine that may be granted in respect of the said house or premises during the said term of three years shall be null and void.

32. Every person licensed to keep a refreshment house under this act who shall (without a license for that purpose) sell, or permit or suffer to be sold, within such refreshment house, any intoxicating liquor, or shall knowingly suffer any unlawful games or gaming therein, or knowingly suffer prostitutes, thieves, or drunken and disorderly persons to assemble at or continue in or upon his premises, or do, suffer, or permit any act in contravention of his license, shall, upon con-

viction thereof before two justices, pay for the first offence a fine not exceeding 40*s.*, for the second offence a fine not exceeding 5*l.*, and for every subsequent offence a fine not exceeding 20*l.*, or be subject to a forfeiture of his license, at the discretion of the justices before whom he shall be convicted; and in case of such forfeiture of his license, such person shall be disqualified for the space of one year then next ensuing from obtaining a fresh license; and such fresh license, if obtained within the said year, shall be absolutely null and void to all intents and purposes.

33. It shall be lawful for the justices before whom any person shall be convicted of any offence against this act to mitigate, if they shall see cause, any penalty incurred for such offence; provided that where any conviction shall take place on any information exhibited under the laws of excise, such penalty shall not be mitigated to any sum less than one-fourth part thereof.

34. Provided always, that it shall be lawful for the party convicted of any such second or third offence to appeal to the general or quarter sessions of the peace then next ensuing, unless such sessions shall be held within twelve days next after such conviction, and in that case to the then next subsequent sessions; and in such case the party so convicted shall, before the convicting justices, forthwith enter into a recognisance, with two sufficient sureties, personally to appear at such general or quarter sessions, and to abide the judgment of the court thereupon, and to pay such costs as shall be by the court awarded, which recognisances such justices are hereby authorised to require and take, or, in failure of the party convicted entering in such recognisance, the conviction shall remain good and valid to all intents and purposes; and the said justices who shall take such recognisance from the party convicted are also hereby required to bind the person who shall make such charge in a recognisance to appear at such general or quarter sessions as aforesaid, then and there to give evidence against the person so charged, and in like manner to bind any other person who shall have any knowledge of the circumstances of such offence; and it shall be lawful for such court of general or quarter sessions to adjudge such person to be guilty of any such second or third offence against the provisions of this act, as the case may be, and such adjudication shall be final to all intents and purposes; and it shall be lawful for such court of general or quarter sessions to punish such offender by fine not exceeding the sum of 100*l.*, together with the costs of such appeal, or to adjudge the license granted to and held by or on behalf of such offender to be forfeited and void, or to adjudge that no wine shall be sold by retail in the house or premises mentioned in the license of such offender for the term of two years from the date of such adjudication, or to punish such offender by such fine as aforesaid, and to adjudge such premises to be disqualified for the sale of wine as aforesaid, and such license to be forfeited and void; and if such license shall be adjudged to be forfeited and void, it shall thenceforth be void accordingly; and whenever in such case, or in any other case, the license of such offender shall be adjudged to be void, such offender shall, from and after such adjudication, be deemed and taken to be incapable of selling wine by retail in any house kept by him for the space of two years, to be computed from the time of such adjudication, and any license granted to such person during such term shall be void to all intents and purposes.

35. Whenever it shall happen that any appeal in pursuance of this act shall be dismissed, or that the judgment appealed against shall be affirmed, or that such appeal shall be abandoned, it shall be lawful for the court to which such appeal shall have been made, or intended to have been made, and such court is hereby required, to adjudge and order that the party so having appealed, or having entered into such recognisance, shall pay to the justices against whose judgment such appeal shall have been made, or intended to be made, or to whomsoever they shall appoint, such sum by way of costs as shall in the opinion of such court be sufficient to indemnify such justices from all costs and charges whatsoever to which such justices may have been put in consequence of the intention or declared intention of such party to appeal; and if such party shall refuse or neglect to pay forthwith such sum, it shall be lawful for the said court to adjudge and order that the party so refusing or neglecting shall be committed to the common gaol or house of correction, there to remain until such sum be paid, or for any time not exceeding six

calendar months, unless such sum be sooner paid; and in every case in which the judgment so appealed against shall be reversed it shall be lawful for such court (if it shall think fit) to adjudge and order that the treasurer of the county or place in and for which such justices whose judgment shall have been so reversed shall have acted on the occasion when they shall have given such judgment shall pay to such justices, or to whomsoever they shall appoint, such sum as shall in the opinion of such court be sufficient to indemnify such justices from all costs and charges whatsoever to which they may have been so put; and the said treasurer is hereby authorised to pay the same, which shall be allowed to him in his accounts.

36. In every case in which any appeal shall be made by any person convicted of any offence under the provisions of this act to the general or quarter sessions it shall be lawful for the convicting justices, if no other fit and proper person shall appear to prosecute such charge, and to carry on such proceedings as may be necessary to obtain at such session an adjudication thereon, to order that a constable of the city of London police force within the city of London and liberties thereof, or a constable of the metropolitan police force within the metropolitan police district, or if elsewhere the superintendent or inspector of police of the district, or the constable or other peace-officer of the parish or place in which the house kept by the person charged shall be situate, as to the said justices shall seem fit, shall carry on all proceedings necessary to obtain such adjudication as aforesaid, and to bind any such constable, or the said superintendent or inspector of police, or other peace-officer, in a sufficient recognisance so to do; and it shall be lawful for the justices before whom such offender shall have been convicted to order the treasurer of the county or place in and for which such justices shall then act to pay to such constable, superintendent, inspector, or other peace-officer, and to the witnesses on his behalf, such sum or sums of money as to the court shall appear to be sufficient to reimburse them respectively the expenses which they shall have been severally put to in and about such prosecution, which order the clerk of the peace is hereby directed and required forthwith to make out, and to deliver to such constable, superintendent, inspector, or other peace-officer and witnesses respectively; and the said treasurer is hereby authorised and required, upon sight of such order, forthwith to pay to the person authorised to receive the same such money as aforesaid, and the said treasurer shall be allowed the same in his accounts.

37. It shall be lawful for the said lord mayor or alderman, and for the justices of the peace before whom respectively any question shall be depending touching any objection against the granting or renewing of a license under the provisions of this act, to summon witnesses on behalf of either party to such question, and to examine all such witnesses on oath, and to do and perform all things necessary for the due and proper hearing and determination of such question, and also to order payment of fees, allowances, and reasonable expenses to their clerks, and to all witnesses, constables, and other persons by whom any duties shall have been performed or expenses or loss of time incurred respectively under this act; and the amount of such fees, allowances, and expenses shall be ascertained according to the tables of fees and allowances for the time being in force in the county, city, or borough respectively within which the refreshment house in question shall be situate; and the order for payment may be made, at the discretion of the said lord mayor, alderman, or justices, either wholly or partially, on the applicant or on the objector, or if the equity of the case shall seem so to require, then on the treasurer of the county, city, or borough aforesaid, who shall be reimbursed out of the county or borough rate; and the provisions of the act passed in the 11 & 12 Vict. c. 43, for the recovery of costs ordered by justices in petty sessions to be paid, shall apply to all costs, allowances, and expenses ordered to be paid under this act.

38. Any person summoned as a witness to give evidence before the said lord mayor or alderman, or any justices or sessions, touching any matters arising under this act, either on the part of the complainant or of the person accused, or of any person interested in any such matter, who shall neglect or refuse to appear at the time and place for that purpose appointed, and who shall not make such reasonable excuse for such neglect or refusal as shall be admitted and allowed by such lord mayor or alderman, or justices or sessions, or

who appearing shall refuse to be examined on oath or affirmation and give evidence, shall, on conviction, forfeit and pay any sum not exceeding 10*l.* for every such offence.

39. Every person licensed to sell wine, spirits, beer, cider, or any other fermented or distilled liquors by retail, to be drunk or consumed on the premises, who knowingly harbours or entertains, or suffers to remain in the place wherein he carries on his business, any constable during any part of the time appointed for his being on duty, unless for the purpose of quelling any disturbance or restoring order, shall for every such offence be liable to a penalty not exceeding 20*s.*

40. Every person found drunk in any street or public thoroughfare, and who while drunk is guilty of any riotous or indecent behaviour, shall, upon summary conviction of such offence before two justices, be liable to a penalty of not more than 40*s.* for every such offence, or may be committed, if the justices or magistrate before whom he is convicted think fit, instead of inflicting on him any pecuniary penalty, to the house of correction for any time not more than seven days.

41. Any person who shall be drunk, riotous, quarrelsome, or disorderly in any shop, house, premises, or place licensed for the sale of beer, wine, or spirituous liquors by retail to be consumed on the premises, or for refreshment, resort, and entertainment under the provisions of this act, and shall refuse or neglect to quit such shop, house, premises, or place upon being requested so to do by the manager or occupier, or his agent or servant, or by any constable, shall, on conviction thereof before one justice, be liable to pay a fine not exceeding 40*s.*; and all constables are hereby authorised, empowered, and required, on the demand of such manager, occupier, agent, or servant, to assist in expelling such drunken, riotous, quarrelsome, and disorderly persons from such shops, houses, premises, and places.

42. And with regard to all penalties incurred under this act, except the penalties herein denominated excise penalties, all the provisions contained in the act passed in the 11 & 12 Vict. c. 43, relating to proceedings for the recovery of penalties by summary conviction, and to appeals against such convictions, and the levying and enforcing of penalties, and the costs of such proceedings, shall be applied and put in force in relation to the penalties by this act imposed.

43. The penalties imposed by this act denominated excise penalties shall be recovered, levied, mitigated, and applied by the same ways, means, and methods, and in like manner, as penalties may be recovered, levied, mitigated, and applied under the laws of excise in that behalf.

44. Provided always, that any covenant or clause of restriction contained in any lease or contract between a landlord and tenant, whereby the trade or business of a vintner is prohibited from being carried on in any house, building, or place mentioned or comprised in such lease or contract, or whereby any such house, building, or place is prohibited from being used as a public-house, shall be construed to apply and extend to every person who shall be licensed to sell wine to be consumed on the premises under the provisions of this act, and to any house specified in the license granted to such person.

45. Nothing in this act contained shall extend to alter, or in any manner to affect, any of the rights or privileges of the Universities of Oxford or Cambridge, or the powers of the chancellors or vice-chancellors of the same, as by law possessed under the respective charters of the said Universities or otherwise, or the master, wardens, freemen, and commonalty of the vintners of the city of London, except as to those freemen of the said Company of Vintners who have obtained the same by redemption only, or the mayor or burgesses of the borough of St. Albans, in the county of Hertford, or their successors.

46. This act shall not extend to Scotland or Ireland.

#### SCHEDULES.

##### No. 1.

#### *Form of License to the Keeper of a Refreshment House.*

We, the undersigned, being the collector and supervisor of excise for the collection of —, and district of —, do hereby authorise and empower —, now being a householder, and dwelling in a house in —, in the parish of —, within the limits of the said collection and district, to keep open the said house as a refreshment house, and to sell any victual or refreshment to be consumed therein, and in

the premises thereto belonging, (provided that, for the sale of any excisable liquor, he shall have in force a proper license granted to him in that behalf); and for this license he hath paid the sum of —, the said house and premises being of [or "under," as the case may be] the value of 20l. a year: and this license is granted upon condition that the said — do not wilfully or knowingly permit any drunkenness, or any violent or quarrelsome or other disorderly conduct, in his house or premises, nor knowingly suffer any unlawful games or any gaming whatsoever therein, nor knowingly suffer or permit persons of known bad character to assemble and meet together therein, but do maintain good order and rule therein: and this license shall continue in force from the — day of — until the 1st day of April next ensuing, and no longer; and this license shall cease and determine, and shall become void, in case any of the conditions or regulations contained therein shall be transgressed, or shall not be observed by the said —.

Given under our hands this — day of —, 186—.  
—, Collector.  
—, Supervisor.

## No. 2.

*Form of License to the Keeper of a Refreshment House to sell therein Wine by Retail to be consumed on the Premises.*

We, the undersigned, being the collector and supervisor of excise for the collection of —, and district of —, do hereby authorize and empower —, now being a householder, and dwelling in a house in —, in the parish of —, within the limits of the said collection and district, for which he has taken out a license as a refreshment house, to sell therein foreign wine by retail, in order that it may be consumed in the said refreshment house, and in the premises thereto belonging; and for this license he hath paid the sum of —, the said house and premises being of [or "under," as the case may be] the value of 50l. a year: and this license is granted upon condition that the said — do not mix or cause to be mixed any spirits, or any drugs or other pernicious ingredients, in any wine sold in his said house and premises; nor fraudulently dilute, or in anywise adulterate any such wine, nor sell or offer for sale any wine which to his knowledge has been so mixed, diluted, or adulterated; nor use in selling any wine any measures which are not of the legal standard; nor wilfully or knowingly permit any drunkenness, or any violent or quarrelsome or other disorderly conduct, in his house or premises; nor knowingly suffer any unlawful games or any gaming whatsoever therein; nor knowingly suffer or permit persons of known bad character to assemble and meet together therein, but do maintain good order and rule therein; nor have or keep his house or premises open for the sale of any victual, refreshment, or wine, nor sell any victual, refreshment, or wine, nor suffer the same to be consumed or drunk in or at such house or premises, at any time before the hour of four o'clock in the morning, nor after any hour of the clock at night prohibited by the act 23 Vict. c. —, [this act]; nor have or keep his house or premises open for the sale or consumption therein of any article whatever at any time during which the houses of licensed victuallers are required by law to be closed on any Sunday, Christmas Day, or Good Friday, or any day appointed for a public fast or thanksgiving, except to a lodger therein: and this license shall continue in force from the — day of — until the 1st day of April next ensuing, and no longer; provided, and upon condition, that the said — shall not in the meantime become a sheriff's officer, or officer for executing the process of any court of justice; and this license shall cease and determine, and shall become void, in case any of the conditions or regulations contained therein shall be transgressed, or shall not be observed by the said —.

Given under our hands this — day of —, 186—.  
—, Collector.  
—, Supervisor.

## No. 3.

*Form of License to sell Wine by Retail, not to be consumed on the Premises.*

We, the undersigned, being the collector and supervisor of excise for the collection of —, and district of —, do hereby authorize and empower —, now keeping a shop for

the sale of goods and commodities at —, in the parish of —, within the limits of the said collection and district, to sell therein foreign and British wine by retail, and in reputed quart or pint bottles only, and not to be consumed in the house or shop or on the said premises where sold; and for this license he hath paid the sum of —, the house and premises being of [or "under," as the case may be] the value of 50l. a year; and this license is granted upon condition that the said — do not mix or cause to be mixed any spirits, or any drugs or other pernicious ingredients, in any wine sold in his shop or premises, nor fraudulently dilute or in anywise adulterate any such wine, nor sell or offer for sale any wine which to his knowledge has been so mixed, diluted, or adulterated; and this license shall continue in force from the — day of — until the 1st day of April next ensuing, and no longer.

Given under our hands this — day of —, 186—.  
—, Collector.  
—, Supervisor.

## CAP. XXVIII.

An Act to repeal the Act of the 7 Geo. 2, c. 8, commonly called "Sir John Barnard's Act," and the Act of the 10 Geo. 2, c. 8. [14th June, 1800.]

The preamble recites the 7 Geo. 2, c. 8, and the 10 Geo. 2, c. 8.

Section 1. Recited acts repealed.

## CAP. XXIX.

An Act to amend an Act relative to malicious Injuries to Property. [14th June, 1800.]

Section 1. *Persons damaging steam-engines, &c. used in working mines guilty of felony, and liable to punishments as in recited act.*

2. *As to offences within the jurisdiction of the Admiralty.*

The preamble recites the 7 & 6 Geo. 4, c. 30.

Section 1. That if any person shall unlawfully and maliciously pull down or destroy or damage, with intent to destroy or to render useless, or shall stop, obstruct, or hinder the working of any steam-engine or other engine, or of any appliance or apparatus in connexion therewith, for sinking, draining, or working any mine, or for in anywise assisting in the working thereof, with intent thereby to destroy or damage such mine, or to hinder or obstruct or delay the working thereof, every such offender shall be guilty of felony, and being convicted thereof shall be liable to any of the punishments as may be awarded for any or either of the offences named in the 6th section of the said recited act.

2. Where any felony punishable under this act shall be committed within the jurisdiction of the Admiralty of England and Ireland, the same shall be dealt with, inquired of, tried, and determined in the same manner as any other felony committed within that jurisdiction.

## CAP. XXX.

An Act to enable a Majority of Two-thirds of the Ratepayers of any Parish or District, duly assembled, to rate their District in aid of Public Improvements for general Benefit within their District. [3rd July, 1800.]

Section 1. *Ratepayers may hold land, &c. for the purpose of forming public walks, &c., and levy rates for maintaining the same &c.*

2. *Adoption of act, according to the 9 & 10 Vict. c. 74.*
3. *As to public baths and washhouses.*
4. *Ratepayers, after notice given, to vote parishes.*
5. *Corporate bodies may attend and vote.*
6. *One-half of the estimated cost to be raised by private subscription.*
7. *Amount of rate.*

Whereas it is expedient that facility should be given for the purpose of effecting local improvements beneficial to the health and comfort of the people: be it therefore enacted &c. as follows:—

Section 1. It shall be lawful for the ratepayers of any parish maintaining its own poor, the population of which, according to the last account from time to time taken thereof by the

authority of Parliament, exceeds 500 persons, to purchase or lease lands, and to accept gifts and grants of land, for the purpose of forming any public walk, exercise or play ground, and to levy rates for maintaining the same, and for removal of any nuisances or obstruction to the free use and enjoyment thereof, and for improving any open walk or footpath, or placing convenient seats or shelters from rain, and for other purposes of a similar nature.

2. This act may be adopted for any borough, or for any parish having a population of 500 or upwards, (according to the last account for the time taken by authority of Parliament), in the same manner as the act of the 9 & 10 Vict. c. 74, may be adopted in such borough or parish.

3. Where the act is adopted in a borough or in such a parish, the provisions of the act of the 9 & 10 Vict. c. 74, for the purposes below specified applicable in the like cases where that act is adopted, shall take effect for the purposes of this act, viz. all the provisions concerning—

- (1). The authority by which and the manner in which the act is to be carried into execution;
- (2). The mode of providing the expenses of carrying the act into execution, (excluding the provisions for borrowing money for such expenses);
- (3). The appointment (in the case of a parish) of commissioners, the tenure of office and procedure, and the audit of their accounts;
- (4). The powers of the councils and commissioners for the purposes of the act, (except the powers of borrowing money).

4. After the adoption of this act it shall be lawful for the ratepayers, in meeting assembled, to rate such parish to a separate rate, to be called "The ——— parish improvement rate;" provided that such rate be agreed to by a majority of at least two-thirds in value of the ratepayers assembled at such meeting.

5. Corporate bodies shall be allowed to attend meetings to be held as aforesaid, and to vote thereat, by some person to be deputed by them for that purpose under their corporate seal.

6. Provided always, that previous to any such rate being imposed a sum in amount not less than at least one-half of the estimated cost of such proposed improvement shall have been raised, given, or collected by private subscription or donation.

7. Such rate shall not exceed 6d. in the pound.

#### CAP. XXXI.

An Act to repeal a certain Enactment for restraining the Governor and Company of the Bank of Ireland from lending Money on Mortgage. [3rd July, 1860.]

The preamble recites that sect. 7 of stat. 21 & 22 Geo. 3, c. 16, (Irish), provided, "that nothing therein contained shall be construed to enable the said corporation, or any person or persons on their behalf, to lend or advance any sum or sums to be secured by mortgage or sale of lands, tenements, or hereditaments redeemable, anything therein contained to the contrary notwithstanding."

Sect. 1. The said recited provision of the said act of the Parliament of Ireland of the 21 & 22 Geo. 3 shall be repealed; and it shall be lawful for the said corporation, or any person or persons on their behalf, to lend or advance any sum or sums of money to be secured by mortgage or sale of lands, tenements, or hereditaments redeemable, if the said corporation shall so think fit.

2. So much of the said recited act as remains unrepealed, and this act, shall be read and construed together as one act.

#### CAP. XXXII.

An Act to abolish the Jurisdiction of the Ecclesiastical Courts in Ireland in Cases of Defamation, and in England and Ireland in certain Cases of Brawling. [3rd July, 1860.]

Sect. 1. Jurisdiction of ecclesiastical courts in suits for defamation and brawling abolished as against persons not in holy orders. Persons in custody for defamation, &c. under order of ecclesiastical courts to be discharged. Order for discharge not to be made until costs lawfully incurred are paid.

2. Penalty on persons found guilty of making a distur-

ance in churches, chapels, churchyards, or burial-grounds. Stat. 18 & 19 Vict. c. 81.

3. Offenders may be, immediately after the offence committed, apprehended &c.

4. Persons aggrieved may appeal against conviction.

5. Stat. 5 & 6 Edw. 6, c. 4, repealed.

6. Act not to affect statutes of the 1 Mary, sess. 2, c. 3; 1 Hm. c. 2; or sect. 16 of the 1 Wm. & M. c. 19.

7. Nothing to limit power of ordinary over fabric of churches, &c.

#### CAP. XXXIII.

An Act to amend certain Provisions in the Bankrupt Law of Scotland. [3rd July, 1860.]

Sect. 1. *Short title.*

2. *Where it appears to the Court of Session, &c. that the estate ought to be distributed in England or Ireland, sequestration may be recalled.*

3. *Discharge of bankrupt may in certain cases be refused, although no opposition be made by creditors.*

4. *Interlocutors of the Lord Ordinary or sheriff subject to review.*

5. *"Gazette" in said act to mean "Edinburgh Gazette."*

6. *Fee to sheriff abolished.*

7. *Fee payable to sheriff for attendances, &c.*

8. *Recited act to remain in force.*

Whereas it is expedient that certain provisions of the Bankruptcy (Scotland) Act, 1856, [19 & 20 Vict. c. 79], should be amended: be it enacted &c. as follows:—

Sect. 1. This act may be cited as "The Bankruptcy (Scotland) Amendment Act, 1860."

2. If, in any case where sequestration has been or shall be awarded in Scotland, it shall appear to the Court of Session or to the Lord Ordinary, upon a summary petition by the accountant in bankruptcy, or any creditor or other person having interest, presented to either division of the said court or to the Lord Ordinary at any time within three months after the date of the sequestration, that a majority of the creditors in number and value reside in England or in Ireland, and that from the situation of the property of the bankrupt or other causes his estate and effects ought to be distributed among the creditors under the bankrupt or insolvent laws of England or Ireland, the said court, in either division thereof, or the Lord Ordinary, after such inquiry as to them shall seem fit, may recall the sequestration.

3. The said court, in either division thereof, or the Lord Ordinary, or the sheriff, may refuse the application for the discharge of any bankrupt, although two years have elapsed from the date of the sequestration, and although no appearance or opposition shall be made by or on the part of any of the creditors, if it shall appear from the report of the accountant in bankruptcy, or other sufficient evidence, that the bankrupt has fraudulently concealed any part of his estate or effects, or has wilfully failed to comply with any of the provisions of the Bankruptcy (Scotland) Act, 1856.

4. All interlocutors pronounced by the Lord Ordinary or the sheriff under the provisions of this act shall be subject to the review of the said Court of Session.

5. To remove doubts which have arisen, it is declared that the word "Gazette" in the 67th section of the said act shall be held to mean the "Edinburgh Gazette;" and the provisions contained in the said act relative to deeds of arrangement shall extend to and include settlements or arrangements by way of composition.

6. The fee provided to be paid to the sheriff under Schedule (I.) of the said act is hereby abolished; but no claim shall exist in respect of any such fee which shall have been paid prior to the passing of this act.

7. For attending any meeting of creditors or, examination a fee of 1l. 1s. shall be payable to the sheriff for each such meeting or diet of examination not being on the same day.

8. The Bankruptcy (Scotland) Act, 1856, except in so far as altered by this act, shall be and remain in full force and effect, and shall be construed with this act; and words interpreted in the said act shall, when used in this act, have the same meanings as are assigned to them respectively by the said act.



## CAP. XXXIV.

An Act to amend the Law relating to Petitions of Right, to simplify the Proceedings, and to make Provisions for the Costs thereof. [3rd July, 1860.]

- Sect. 1. *Petitions of right may be intitled in any of the superior courts at Westminster. The form, nature, and contents of the petition as in Schedule No. 1.*
2. *Petition to be left with the Secretary of State for the Home Department for her Majesty's fiat.*
3. *Upon fiat being obtained, petition, &c. to be left at the office of the Solicitor of the Treasury, indorsed as in Schedule No. 2.*
4. *Time for answering by the Crown. Power to change the court or venue.*
5. *Time for answering by other persons, parties to the petition.*
6. *The answer or plea to such petition.*
7. *The practice and course of procedure in action and suit between subject and subject shall extend to petitions of right, so far as applicable.*
8. *Decrees or judgments by default.*
9. *Form of judgment or decree.*
10. *Effect of judgment of amoveas manus.*
11. *Costs recoverable by the Crown and any other person party to the petition.*
12. *The suppliant to be entitled to costs against the Crown and other parties to the proceedings.*
13. *Decree or judgment in favour of the suppliant to be certified to the Treasury, or the Treasurer of the Household, in form of Schedule No. 5.*
14. *Satisfaction of the judgment and costs.*
15. *Power to judges to make rules and regulations, &c.*
16. *Interpretation of terms.*
17. *Short title.*
18. *Nothing to prevent the suppliant proceeding as before.*

Whereas it is expedient to amend the law relating to petitions of right, to simplify the procedure therein, to make provision for the recovery of costs in such cases, and to assimilate the proceedings, as nearly as may be, to the course of practice and procedure now in force in actions and suits between subject and subject: be it therefore enacted &c. as follows:—

Sect. 1. A petition of right may, if the suppliant think fit, be intitled in any one of the superior courts of common law or equity at Westminster, in which the subject-matter of such petition, or any material part thereof, would have been cognisable if the same had been a matter in dispute between subject and subject, and if intitled in a court of common law shall state in the margin the venue for the trial of such petition; and such petition shall be addressed to her Majesty in the form or to the effect in the schedule to this act annexed, (No. 1), and shall state the Christian and surname and usual place of abode of the suppliant and of his attorney, if any, by whom the same shall be presented, and shall set forth with convenient certainty the facts entitling the suppliant to relief, and shall be signed by such suppliant, his counsel or attorney.

2. The said petition shall be left with the Secretary of State for the Home Department, in order that the same may be submitted to her Majesty for her Majesty's gracious consideration, and in order that her Majesty, if she shall think fit, may grant her fiat that right be done; and no fee or sum of money shall be payable by the suppliant on so leaving such petition, or upon his receiving back the same.

3. Upon her Majesty's fiat being obtained to such petition, a copy of such petition and fiat shall be left at the office of the Solicitor to the Treasury, with an indorsement thereon in the form or to the effect in the Schedule (No. 2) to this act annexed, praying for a plea or answer on behalf of her Majesty within twenty-eight days, and it shall thereupon be the duty of the said solicitor to transmit such petition to the particular department to which the subject-matter of such petition may relate, and the same shall be prosecuted in the court in which the same shall be intitled, or in such other court as the Lord Chancellor may direct.

4. The time for answering, pleading, or demurring to such petition, on behalf of her Majesty, shall be the said period of twenty-eight days after the same, with such prayer of a plea

or answer as aforesaid, shall have been left at the office of the Solicitor to the Treasury, or such further time as shall be allowed by the court or a judge: provided always, that it shall be lawful for the Lord Chancellor, on the application of the Attorney-General or of the suppliant, to change the court in which such petition shall be prosecuted, or the venue for the trial of the same.

5. In case any such petition of right shall be presented for the recovery of any real or personal property, or any right in or to the same, which shall have been granted away or disposed of by or on behalf of her Majesty or her predecessors, a copy of such petition, allowance, and fiat shall be served upon or left at the last or usual or last known place of abode of the person in the possession, occupation, or enjoyment of such property or right, indorsed with a notice in the form set forth in the Schedule (No. 3), requiring such person to appear thereto within eight days, and to plead or answer thereto in the court in which the same shall be prosecuted within fourteen days after the same shall have been so served or left as aforesaid; and it shall not be necessary to issue any *scire facias* or other process to such person for the purpose of requiring him to appear and plead or answer to such petition, but he shall within the time so limited, if it be intended by him to contest such petition, enter an appearance to the same in the form set forth in Schedule (No. 4) to this act annexed, or to the like effect, and shall plead, answer, or demur to the said petition within the time specified in such notice, or such further time as shall be allowed by the court or a judge.

6. Such petition may be answered by way of answer, plea, or demurrer in a court of equity, or in a court of common law by way of plea or demurrer, or by both pleas and demurrer, by or in the name of her Majesty's Attorney-General on behalf of her Majesty, and by or on behalf of any other person who may, in pursuance hereof, be called upon to plead or answer thereto, in the same manner as if such petition in a court of equity were a bill filed therein, or, if the petition be prosecuted in a court of common law, as if the same were a declaration in a personal action, and without the necessity for any inquisition finding the truth of such petition, or the right of the suppliant, and such and the same matter as would be sufficient ground of answer or defence, in point of law or fact, to such petition on the behalf of her Majesty may be alleged on behalf of any such other person as aforesaid called on to plead or answer thereto.

7. So far as the same may be applicable, and except in so far as may be inconsistent with this act, the laws and statutes in force as to pleading, evidence, hearing, and trial, security for costs, amendment, arbitration, special cases, the means of procuring and taking evidence, set-off, appeal, and proceedings in error in suits in equity, and personal actions between subject and subject, and the practice and course of procedure of the said courts of law and equity respectively for the time being in reference to such suits and personal actions, shall, unless the court in which the petition is prosecuted shall otherwise order, be applicable, and apply and extend, to such petition of right: provided always, that nothing in this statute shall be construed to give to the subject any remedy against the Crown in any case in which he would not have been entitled to such remedy before the passing of this act.

8. In case of a failure on the behalf of her Majesty, or of any such other person as aforesaid called upon to answer or plead to such petition, to plead, answer, or demur in due time, either to such petition, or at any subsequent stage of the proceedings thereon, the suppliant shall be at liberty to apply to the court or a judge for an order that the petition may be taken as confessed; and it shall be lawful for such court or judge, on being satisfied that there has been such failure to plead, answer, or demur in due time, to order that such petition may be taken as confessed as against her Majesty or such other party so making default; and in case of default on the behalf of her Majesty, and any other such person (if any) called upon as aforesaid to answer or plead thereto, a decree may be made by the court, or leave may be given by the court, on the application of the suppliant, to sign judgment in favour of the suppliant: provided always, that such decree or judgment may afterwards be set aside by such court or a judge, in their or his discretion, on such terms as to them or him shall seem fit.

9. Upon every such petition of right, the decree or judgment of the court, whether given upon demurrer upon the pleadings, or upon a default to answer or plead in time, or



after hearing or verdict, or in error, shall be that the suppliant is or is not entitled either to the whole or to some portion of the relief sought by his petition, or such other relief as the court may think right, and such court may give a decree or judgment that the suppliant is entitled to such relief, and upon such terms and conditions (if any) as such court shall think just.

10. In all cases in which the judgment, commonly called a judgment of *amoveas manus*, has heretofore been pronounced or given upon a petition of right, a judgment that the suppliant is entitled to relief as hereinbefore provided shall be of such and the same effect as such judgment of *amoveas manus*.

11. Upon any such petition of right, the Attorney-General or other person appearing on behalf of her Majesty, and every such other person as aforesaid who shall appear, and plead or answer to such petition, shall be entitled respectively to recover costs against the suppliant, in the same manner, and subject to the same restrictions and discretion, and under the same rules, regulations, and provisions, so far as they are applicable, as are or may be usually adopted or in force touching the payment or receipt of costs in proceedings between subject and subject, and, for the recovery of such costs, such and the same remedies and writs of execution as are authorised for enforcing payment of costs upon judgments in personal actions or decrees, rules or orders, shall and may be prosecuted, sued out, and executed respectively by or on behalf of her Majesty, and of such other person as aforesaid, as shall appear and plead to such petition, and any costs recovered on behalf of her Majesty shall be paid into the Exchequer, and shall become part of the Consolidated Fund, except where such petition shall be defended on behalf of her Majesty in her private capacity, in which case such costs shall be paid to the Treasurer of her Majesty's Household, or such other person as her Majesty shall appoint to receive the same.

12. Upon any such petition of right the suppliant shall be entitled to costs against her Majesty, and also against any other person appearing, or pleading, or answering to any such petition of right, in like manner, and subject to the same rules, regulations, and provisions, restrictions and discretion, as far as they are applicable, as are or may be usually adopted or in force touching the right to recover costs in proceedings between subject and subject; and for the recovery of any such costs from any such person, other than her Majesty, appearing, or pleading, or answering, in pursuance thereof, to any such petition of right, such and the same remedies and writs of execution as are authorised for enforcing payment of costs upon rules, orders, decrees, or judgments in personal actions between subject and subject shall and may be prosecuted, sued out, and executed on behalf of such suppliant.

13. Whenever, upon any such petition of right, a judgment, order, or decree shall be given or made that the suppliant is entitled to relief, and there shall be no rehearing, appeal, or writ of error, or, in case of an appeal or proceedings in error, a judgment, order, or decree shall have been affirmed, given, or made that the suppliant is entitled to relief, or upon any rule or order being made entitling the suppliant to costs, any one of the judges of the court in which such petition shall have been prosecuted shall and may, upon application on behalf of the suppliant, after the lapse of fourteen days from the making, giving, or affirming of such judgment or decree, rule or order, certify to the Commissioners of her Majesty's Treasury, or to the Treasurer of her Majesty's Household, as the case may require, the tenor and purport of the same, in the form in the Schedule (No. 5) to this act annexed, or to the like effect; and such certificate may be sent to or left at the office of the Commissioners of her Majesty's Treasury, or of the Treasurer of her Majesty's Household, as the case may be.

14. It shall be lawful for the Commissioners of her Majesty's Treasury, and they are hereby required, to pay the amount of any monies and costs, as to which a judgment or decree, rule or order shall be given or made, that the suppliant in any such petition of right is entitled, and of which judgment or decree, rule or order the tenor and purport shall have been so certified to them as aforesaid, out of any monies in their hands for the time being legally applicable thereto, or which may be hereafter voted by Parliament for that purpose, provided such petition shall relate to any public matter;

and in case the same shall relate to any private property of or enjoyed by her Majesty, or any contract or engagement made by or on behalf of her Majesty, or any matter affecting her Majesty in her private capacity, a certificate in the form aforesaid may be sent to or left at the office of the Treasurer of her Majesty's Household, or such other person as her Majesty shall from time to time appoint to receive the same, and the amount to which the suppliant is entitled shall be paid to him out of such funds or monies as her Majesty shall be graciously pleased to direct to be applied for that purpose.

15. It shall be lawful for the judges of the said courts of law and equity respectively, or any three or more of the judges of the Court of Chancery, of whom the Lord Chancellor shall be one, and for any eight or more of the judges of the courts of common law, of whom the chiefs of each of the said courts shall be three, from time to time to make all such general rules and orders in their said respective courts of law and equity, for regulating the pleading and practice on such petitions of right, and for the effectual execution of this act and of the intention and object hereof, and for fixing the costs to be allowed for and in respect of the several matters herein contained, and the performance thereof, and for the government and conduct of the officers of their respective courts in and relating to the distribution and performance of the duties and business to be done or performed in execution of this act, as such judges may think fit, reasonable, necessary, or proper, and to frame such writs and forms of proceedings as to them may seem expedient for the purposes aforesaid; and all such rules, orders, or regulations shall be laid before both Houses of Parliament, if Parliament be then sitting, immediately upon the making of the same, or if Parliament be not sitting, then within five days after the next meeting thereof; and no such rule, order, or regulation shall have effect until three months after the same shall have been so laid before both Houses of Parliament; and any rule, order, or regulation so made shall from and after such time aforesaid be binding and obligatory on the said courts, and on any courts of error or appeal into which any judgments or decrees of the said courts shall be carried by any writ of error or appeal, and be of the like force and effect as if the provisions contained therein had been expressly enacted by Parliament: provided always, that it shall be lawful for the Queen's most excellent Majesty, by any proclamation inserted in the London Gazette, or for either of the Houses of Parliament, by any resolution passed at any time within three months next after such rules, orders, and regulations shall have been laid before Parliament, to suspend the whole or any part of such rules, orders, or regulations, and in such case the whole, or such part thereof as shall be so suspended, shall not be binding and obligatory on the said courts.

16. In the construction of this act the words "her Majesty" shall extend to and include her Majesty's successors; and the words "Lord High Chancellor" and "Lord Chancellor" respectively shall mean and include the Keeper of the Great Seal and Commissioners for executing the Office of Lord Chancellor or Keeper of the Great Seal; the word "court" shall be understood to mean any one of the superior courts of common law or equity at Westminster in which any such petition is presented; the word "relief" shall comprehend every species of relief claimed or prayed for in any such petition of right, whether a restitution of any incorporeal right, or a return of lands or chattels, or a payment of money or damages, or otherwise; and the word "judge" shall be understood to mean a judge or baron of any of the said courts respectively; and wherever in this act, in describing or referring to any person, party, or thing, any word importing the singular number or masculine or feminine gender is used, the same shall be understood to include and be applicable to several persons and parties as well as one person or party, and to females as well as males, and males as well as females, and bodies corporate as well as individuals, and several matters and things as well as one matter or thing, unless it otherwise be provided, or there be something in the subject or context repugnant to such construction.

17. In citing this act in any instrument, document, or proceeding, it shall be sufficient to use the expression "The Petitions of Right Act, 1860."

18. Nothing in this act contained shall prevent any suppliant from proceeding as before the passing of this act.

## SCHEDULE REFERRED TO IN THE FOREGOING ACT.

## No. 1.

*Petition.*

In the Queen's Bench, [or Common Pleas, or Exchequer of Pleas, or in Chancery.]

To the Queen's most Excellent Majesty.

[*Middlesex.*] } The humble petition of A. B., of —, by his  
to wit, } attorney, E. F., of —, sheweth that [*state*  
*the facts.*]

*Conclusion.*

Your suppliant therefore humbly prays that &c.

Dated the — day of —, A. D. —.

(Signed) A. B.  
or C. D., Counsel for A. B.  
or E. F., Attorney for A. B.

## No. 2.

The suppliant prays for a plea or an answer on behalf of her Majesty within twenty-eight days after the date hereof, or otherwise that the petition may be taken as confessed.

## No. 3.

## To A. B.

You are hereby required to appear to the within petition, in her Majesty's Court of Queen's Bench, [or Common Pleas, or Exchequer, or High Court of Chancery], within eight days, and to plead or answer thereto within fourteen, after the date hereof.

Take notice, that if you fail to appear or plead or answer in due time, the said petition may, as against you, be ordered to be taken as confessed.

Dated &c.

## No. 4.

In the Queen's Bench, [or Common Pleas, or Exchequer of Pleas, or in Chancery.]

*Petition of Right.*

A. B., suppliant, } C. D. appears in person.  
v. } E. F., attorney for C. D., appears for him.  
The Queen.

[If the appearance be in person, the address of the party appearing to be given.]

Entered the — day of —, 186—.

## No. 5.

*Certificate of a Judge of the Court of the Tenor and Purport of the Judgment or Decree.*

To the Commissioners of her Majesty's Treasury, [or the Treasurer of her Majesty's Household.]

Petition of right of A. B., in her Majesty's Court of Queen's Bench, [or Common Pleas, or Exchequer, or High Court of Chancery], at Westminster.

I humbly certify, that on the — day of —, A. D. —, it was, by the said Court of Queen's Bench, [or Common Pleas, or Exchequer, or High Court of Chancery], adjudged [or decreed, or ordered] that the above-named suppliant was entitled to &c.

[*Judge's signature.*]

## CAP. XXXV.

An Act further to amend an Act of the Eighteenth Year of Her present Majesty, to amend the Law for the better Prevention of the Sale of Spirits by unlicensed Persons, and for the Suppression of illicit Distillation in Ireland.

[23rd July, 1860.]

Sec. 1. As to appeals from informal orders of justices refusing licenses.

2. If order of refusal reversed, excise officer to renew the licence.

## CAP. XXXVI.

An Act to authorise the Appointment and Approval of Places for the warehousing of Goods for the Security of Duties of Customs.

[23rd July, 1860.]

Sec. 1. Power to appoint certain warehousing places.

2. Powers of Customs Acts conferred upon commissioners applicable to this act.

3. Warehouses to be for public accommodation, and to be of approved dimensions.
4. Warehouses to be within 1000 yards of custom-house.
5. Interpretation of "extra rates."
6. Rates herein named to be paid in lieu of existing charges.
7. Rates deemed customs duties.
8. Commencement and short title of act.

Be it enacted &c. as follows:—

Sec. 1. The Commissioners of her Majesty's Treasury may, by their warrant, appoint that the parish of Manchester, the boroughs of Birmingham, Leeds, and Sheffield, or any of them, and such other places as they may see fit, shall be warehousing places, subject to the provisions hereinafter contained.

2. The powers and authorities conferred by the Customs Consolidation Act, 1853, upon the Commissioners of the Treasury for the appointment of warehousing ports, and upon the Commissioners of Customs for the approval of warehouses in such ports, shall extend to and be applicable to the said parish and boroughs, or any of them, and to any other place or places in the United Kingdom which the said Commissioners of the Treasury may consider to have a sufficient consumption of articles paying customs duties to justify the expense of a customs establishment, and may see fit to appoint as warehousing places, and to any warehouse or warehouses in any such place or places which the said Commissioners of Customs may see fit to approve for the warehousing of goods for the security of duties of customs; and the said Commissioners of the Treasury by warrant under their hands, and the said Commissioners of Customs by order under their hands, are hereby authorised and empowered to appoint and approve of any such place or places, warehouse or warehouses accordingly; and, except as hereinafter mentioned and provided, the said act, and all other acts now or hereafter to be made relating to the customs, and all the powers and authorities, provisions, privileges, forfeitures, securities, penalties, rules, regulations, restrictions, matters, and things contained therein, or made or done in pursuance thereof, with reference to warehousing ports and warehouses appointed or approved under the said act or any other act relating to the customs, shall, so far as the same are or can be made applicable, extend and apply to every warehousing place and warehouse which shall or may be appointed or approved under or in pursuance of this act, and to the proprietor or occupier of, and to the conduct and management of the business of, every such warehouse, and the security of duties of customs due or payable upon or in respect of all goods deposited therein.

3. No warehouse shall be appointed or approved under this act except for the general accommodation of any merchants, traders, or others having occasion to deposit goods therein for the security of duties of customs; nor shall any warehouse be approved under this act unless it be of such dimensions as the Commissioners of Customs consider sufficient, having regard to the wants of the town wherein it is situated.

4. When the site of the custom-house in any place appointed under this act shall have been fixed or determined on by the Commissioners of Customs, it shall be lawful for the said Commissioners to refuse their approval of any warehouse above 1000 yards from such site.

5. The words "extra rates," in the proviso to the 15th section of the Customs Tariff Amendment Act, 1860, shall be construed to mean the additional rates of 2s. 6d. for every 100l. of customs duty on tobacco, and of 5s. for every 100l. of customs duty on sugar and other goods, which by the said section are made payable upon the said articles when they shall have been removed under bond; and the single rates of 2s. 6d. and 5s. respectively imposed by the said section shall be payable in respect of goods delivered from warehouses which possessed the privilege of bonding at the passing of the said act, whether such goods shall have been removed or not.

6. In lieu of the sums now payable by the council of the city of Manchester to the said commissioners in respect of the expenses incident to the management and collection of the customs duties, under the several acts now in force relating thereto, there shall be charged upon goods deposited in any

warehouse at Manchester approved under the said last-mentioned acts, on the delivery thereof for home consumption, the same rates as are made payable by the Customs Tariff Act, 1860, and this act, on the delivery for home consumption of the like kinds of goods from any warehouse approved under this act.

7. The rates made payable under the said Customs Tariff Amendment Act, 1860, and this act, shall be deemed to be duties of customs payable in the United Kingdom of Great Britain and Ireland, and may be sued for, enforced, recovered, and applied accordingly.

8. This act shall come into operation on the day of the passing thereof; and in citing it in other acts of Parliament and legal instruments it shall be sufficient to use the expression "Customs Inland Bonding Act, 1860."

#### CAP. XXXVII.

An Act to levy an Assessment in the County of Inverness to discharge a Debt on the Castle Stewart and Nairn Road, in the said County. [23rd July, 1860.]

#### CAP. XXXVIII.

An Act to further amend the Law of Property. [23rd July, 1860.]

- SECT. 1.** *Writs of execution of judgments to be registered.*  
**2.** *Mode of registering.*  
**3.** *Provision for protection of heirs and executors against unregistered judgments.*  
**4.** *Judgments, as against heirs and executors, to be re-registered.*  
**5.** *Extent of the word "judgment."*  
**6.** *Restriction of effect of waiver.*  
**7.** *Provision for cases of future and contingent uses.*  
**8.** *Sect. 24 of the 22 & 23 Vict. c. 35, extended to mortgages.*  
**9.** *Form of applying for advice of judge, &c. under sect. 30 of the 22 & 23 Vict. c. 35.*  
**10.** *Power to Lord Chancellors, &c. of England and Ireland to make general orders as to investment of cash under the control of the court.*  
**11.** *Trustees, &c. to invest trust funds in the stocks, &c. in which cash under the control of the court may be invested.*  
**12.** *Sect. 32 of the 22 & 23 Vict. c. 35, to act retrospectively.*  
**13.** *Extension of sect. 40 of the 3 & 4 Will. 4, c. 27, to cases of claims to estates of intestates.*  
**14.** *Order to take account of debts, &c. of deceased person, under sect. 19 of the 13 & 14 Vict. c. 35, may be made immediately after probate granted.*  
**15.** *Act not to extend to Scotland, &c.*

Be it enacted &c. as follows:—

**SECT. 1.** Whereas it is desirable to place freehold, copyhold, and customary estates on the same footing with leasehold estates, in respect of judgments, statutes, and recognisances, as against purchasers and mortgagees, and also to enable purchasers and mortgagees of estates, whether freehold, copyhold, or customary or leasehold, to ascertain when execution has issued on any judgment, statute, or recognisance, and to protect them against delay in the execution of the writ: be it therefore enacted, that no judgment, statute, or recognisance to be entered up after the passing of this act shall affect any land, of whatever tenure, as to a bona fide purchaser for valuable consideration, or a mortgagee, (whether such purchaser or mortgagee have notice or not of any such judgment, statute, or recognisance), unless a writ or other due process of execution of such judgment, statute, or recognisance shall have been issued and registered as hereinafter is mentioned before the execution of the conveyance or mortgage to him, and the payment of the purchase or mortgage money by him: provided always, that no judgment, statute, or recognisance to be entered up after the passing of this act, nor any writ of execution or other process thereon, shall affect any land, of whatever tenure, as to a bona fide purchaser or mortgagee, although execution or other process shall have issued thereon, and have been duly registered, unless such execution or other process shall be executed and put in force within three calendar months from the time when it was registered.

2. The registry hereinbefore required of any writ of execution, or other due process on any judgment, statute, or recognisance, in order to bind a purchaser or mortgagee, shall be made by a memorandum or minute referring to the judgment, statute, or recognisance already registered, so as to connect the registry of the writ of execution or other process therewith; such memorandum or minute to be left with the senior master of the Court of Common Pleas at Westminster, who shall forthwith enter the particulars in a book in alphabetical order, by the name of the person in whose behalf the judgment, statute, or recognisance upon which the writ of execution or other process issued was registered, and also the year and the day of the month when every such memorandum or minute is left with him, and such officer shall be entitled for any such registry to the sum of 5s.; and all persons shall be at liberty to search the same book, in addition to all the other books in the same office, on payment of the sum of 1s. only: and all the provisions in this act in regard to writs of execution or other process, and the registry thereof, or otherwise relating thereto, shall extend, mutatis mutandis, to writs of execution or other due process issuing on judgments of the several Courts of Common Pleas of the county palatine of Lancaster, and of Pleas of the county palatine of Durham: but none of these provisions are to extend to Ireland.

3. And whereas, by an act passed in the 4 & 5 Will. & M., intitled "An Act for the better Discovery of Judgments in the Courts of King's Bench, Common Pleas, and Exchequer, in Westminster," it was enacted, that no judgment not docketed and entered in books in the manner thereby provided should affect any lands or tenements, as to purchasers or mortgagees, or have any preference against heirs, executors, or administrators, in their administration of their ancestors', testators', or intestates' estates: and whereas, by several later acts, judgments are required to be registered with more particulars than were required by the said recited act; and it is thereby enacted, that judgments not so registered shall not affect any lands, tenements, or hereditaments, as to purchasers, mortgagees, or creditors, unless and until the same shall be registered in manner thereby required; and in obedience to a direction in one of the same acts contained, the dockets existing under the said first-recited act have been finally closed: and whereas the said several later acts do not expressly enact that judgments not docketed as thereby required shall not have any preference against heirs, executors, or administrators, in their administration of their ancestors', testators', or intestates' estates, in consequence whereof such heirs, executors, or administrators have been held to have lost the protection which they enjoyed under the said first-recited act, and it is expedient that the same should be restored: be it therefore declared and enacted, that no judgment which has not already been, or which shall not hereafter be, entered or docketed under the several acts now in force, and which passed subsequently to the said act of the 4 & 5 Will. & M., so as to bind lands, tenements, or hereditaments, as against purchasers, mortgagees, or creditors, shall have any preference against heirs, executors, or administrators, in their administration of their ancestors', testators', or intestates' estates.

4. No judgments which since the passing of an act of the 1 & 2 Vict., intitled "An Act for abolishing Arrest on Means Process in Civil Actions except in certain Cases, for extending the Remedies of Creditors against the Property of Debtors, and for amending the Laws for the Relief of Insolvent Debtors in England," (being one of the acts hereinbefore referred to), have been registered under the provisions therein contained, or contained in the later act of the 2 & 3 Vict. c. 11, as explained and amended by the act of the 18 & 19 Vict. c. 15, (being two other of the acts hereinbefore referred to), or which shall hereafter be so registered, shall have any preference against heirs, executors, or administrators, in their administration of their executors', testators', or intestates' effects, unless at the death of the testator or intestate five years shall not have elapsed from the date of the entry thereof on the docket, or from the only or last re-registry thereof, as the case may be, which re-registry from time to time is hereby authorised to be made in manner directed by the said act of the 2 & 3 Vict., as explained and amended by the act of the 18 & 19 Vict.; but it shall be deemed sufficient to secure such preference as aforesaid if such a memorandum as was required in the first instance is again left with the senior Master of the Common Pleas within

five years before the death of the testator or intestate, although more than five years shall have expired by effluxion of time since the last previous registration, before such last-mentioned memorandum or minute was left; and so toties quoties upon every re-registration.

5. In the construction of the previous provisions the term "judgment" shall be taken to include registered decrees, orders of courts of equity and bankruptcy, and other orders having the operation of a judgment.

6. Where any actual waiver of the benefit of any covenant or condition in any lease on the part of any lessor, or his heirs, executors, administrators, or assigns, shall be proved to have taken place after the passing of this act in any one particular instance, such actual waiver shall not be assumed or deemed to extend to any instance or any breach of covenant or condition other than that to which such waiver specially relate, nor to be a general waiver of the benefit of any such covenant or condition, unless an intention to that effect shall appear.

7. Where by any instrument any hereditaments have been or shall be limited to uses, all uses thereunder, whether expressed or implied by law, and whether immediate or future, or contingent or executory, or to be declared under any power therein contained, shall take effect when and as they arise by force of and by relation to the estate and seisin originally vested in the person seised to the uses, and the continued existence in him or elsewhere of any seisin to uses or scintilla juris shall not be deemed necessary for the support of, or to give effect to, future or contingent or executory uses, nor shall any such seisin to uses or scintilla juris be deemed to be suspended, or to remain or to subsist in him or elsewhere.

8. The 24th section of the act 22 & 23 Vict. c. 35, shall be read and construed as if the words "or mortgagee" had followed the word "purchaser" in every place where the latter word is introduced in the said section.

9. Where any trustee, executor, or administrator shall apply for the opinion, advice, or direction of a judge of the Court of Chancery under the 30th section of the act of the 22 & 23 Vict. c. 35, the petition or statement shall be signed by counsel, and the judge by whom it is to be answered may require the petitioner or applicant to attend him by counsel either in chambers or in court, where he deems it necessary to have the assistance of counsel.

10. It shall be lawful for the Lord Chancellor, Lord Keeper, or Lords Commissioners for the Custody of the Great Seal of England, with the advice and assistance of the Master of the Rolls, the Lords Justices of the Court of Appeal in Chancery, and the Vice-Chancellors of the said court, or any three of them, and for the Lord Chancellor of Ireland, with the advice and assistance of the Lords Justices of Appeal and the Master of the Rolls in Ireland, to make such General Orders from time to time, as to the investment of cash under the control of the court, either in the 3l. per Cent. Consolidated or Reduced or New Bank Annuities, or in such other stocks, funds, or securities as he or they shall, with such advice or assistance, see fit; and it shall be lawful for the Lord Chancellor, Lord Keeper, or Lords Commissioners in England, and for the Lord Chancellor in Ireland, to make such orders as he or they shall deem proper for the conversion of any 3l. per Cent. Bank Annuities now standing, or which may hereafter stand, in the name of the Accountant-General of the said Court of Chancery, in trust in any cause or matter, into any such other stocks, funds, or securities upon which, by any such General Order as aforesaid, cash under the control of the court may be invested; all orders for such conversion of Bank Annuities into other funds or securities to be made upon petition to be presented by any of the parties interested, in a summary way, and such parties shall be served with notice thereof, as the court shall direct.

11. When any such General Order as aforesaid shall have been made, it shall be lawful for trustees, executors, or administrators, having power to invest their trust funds upon Government securities, or upon parliamentary stocks, funds, or securities, or any of them, to invest such trust funds, or any part thereof, in any of the stocks, funds, or securities in or upon which, by such General Order, cash under the control of the court may from time to time be invested.

12. Clause 32 of the said act of the 22 & 23 Vict. c. 35, shall operate retrospectively.

13. Whereas, by the act of the 3 & 4 Will. 4, c. 27, a. 40, it

was enacted, that after the 31st December, 1833, no action or suit or other proceeding shall be brought to recover any sum of money secured by any mortgage, judgment, or lien, or otherwise, charged upon or payable out of any land or rent, at law or in equity, or any legacy, but within twenty years next after a present right to receive the same should have accrued to some person capable of giving a discharge for or release of the same, unless such acknowledgment in writing, or payment of principal or interest, as therein mentioned, should have been given or made, and then within twenty years next after such payment or acknowledgment, or the last of such payments or acknowledgments: and whereas it is expedient that the said enactment should be extended to the case of claims to the estates of persons dying intestate: be it therefore enacted, that after the 31st December, 1860, no suit or other proceeding shall be brought to recover the personal estate, or any share of the personal estate, of any person dying intestate, possessed by the legal personal representative of such intestate, but within twenty years next after a present right to receive the same shall have accrued to some person capable of giving a discharge for or release of the same, unless in the meantime some part of such estate or share, or some interest in respect thereof, shall have been accounted for or paid, or some acknowledgment of the right thereto shall have been given in writing, signed by the person accountable for the same, or his agent, to the person entitled thereto, or his agent; and in such case no such action or suit shall be brought, but within twenty years after such accounting, payment, or acknowledgment, or the last of such accountings, payments, or acknowledgments, if more than one, was made or given.

14. The order to take an account of the debts and liabilities affecting the personal estate of a deceased person, pursuant to the 19th section of the act of the 13 & 14 Vict. c. 35, may be made immediately, or at any time after probate or letters of administration shall have been granted; and such order may be made either by the Court of Chancery, upon motion or petition of course, or by a judge of the said court, sitting at chambers, upon a summons in the form used for originating proceedings at chambers; and after any such order shall have been made, the said court or judge may, on the application of the executors or administrators, by motion or summons, restrain or suspend, until the account directed by such order shall have been taken, any proceedings at law against such executors or administrators by any person having, or claiming to have, any demand upon the estate of the deceased, by reason of any debt or liability due from the estate of the deceased, upon such notice, and terms and conditions, (if any), as to the said court or judge shall seem just; and the judge, in taking an account of debts and liabilities pursuant to any such order, shall, on the application of the executors or administrators, be at liberty to direct that the particulars only of any claim or claims which may be brought, in pursuance of any such order, shall be certified by his chief clerk, without any adjudication thereon; and any notice for creditors to come in which may be published, in pursuance of any such order, shall have the same force and effect as if such notices had been given by the executors or administrators, in pursuance of the 29th section of the act of the 22 & 23 Vict. c. 35.

15. This act is not to extend to Scotland, nor are any of the clauses, except clause 6, and the subsequent clauses, to extend to Ireland.

#### CAP. XXXIX.

An Act for the Construction of a new Harbour, and the Improvement of the existing Harbour, at Anstruther Easter, in the County of Fife. [23rd July, 1860.]

#### CAP. XL.

An Act to indemnify such Persons in the United Kingdom as have omitted to qualify themselves for Offices and Employments, and to extend the Time limited for those Purposes respectively. [23rd July, 1860.]

#### CAP. XLI.

An Act to make perpetual an Act of the Twenty-first and Twenty-second Years of Her present Majesty, to amend the Law relating to Cheap Trains, and to restrain the Exercise of certain Powers by Canal Companies, being also Railway Companies. [23rd July, 1860.]

## CAP. XLII.

An Act to vest the Management of the Phoenix Park in the Commissioners of Public Works in Ireland.

[23rd July, 1860.]

## CAP. XLIII.

An Act for confirming a Scheme of the Charity Commissioners for the Administration of Archbishop Tenison's Charity, in the Parish of St. Martin-in-the-Fields, in the City of Westminster.

[23rd July, 1860.]

## CAP. XLIV.

An Act to confirm certain Provisional Orders under the Local Government Act, 1858, relating to the Districts of Southampton, Leicester, Epsom, Coventry, Ipswich, Fareham, Wells, Tormoham, Scarborough, Ludlow, Banbury, Boston, Penrith, Barnsley, and Shipley; and for other Purposes in relation thereto.

[23rd July, 1860.]

## CAP. XLV.

An Act to extend the Act of the 8 & 9 Vict. c. 26, for preventing fishing for Trout or other Fresh-water Fish by Nets in the Rivers and Waters in Scotland.

[23rd July, 1860.]

Sect. 1. Fishing for trout, &c., by means of nets, &c., in any rivers, &c. in Scotland, prohibited. Penalty. Nothing to prevent persons having rights, &c. to fish.

2. Penalty for trespassing on any ground or river to fish with net, &c.

3. Power to persons having authority to seize boats, nets, &c. used in commission of offences.

4. Justices who are proprietors not to be disqualified from acting.

5. For the recovery of penalties.

6. Power to appeal in manner as in stat. 20 Geo. 2, c. 43.

7. Application of penalties.

8. Limitation of actions.

9. Interpretation of terms.

10. Saving the laws regarding the salmon fisheries.

11. Saving the laws regarding fishing with single rod.

## CAP. XLVI.

An Act to amend and enlarge the Powers and Provisions of the several Acts relating to the Caledonian and Crinan Canals.

[23rd July, 1860.]

## CAP. XLVII.

An Act to amend the Law relative to the Legal Qualifications of Councillors and the Admission of Burgesses in Royal Burghs in Scotland.

[23rd July, 1860.]

## CAP. XLVIII.

An Act to provide for the Settlement and Discharge of the Debt due to the Commissioners of Her Majesty's Treasury from the Harbour and Docks of Leith.

[23rd July, 1860.]

## CAP. XLIX.

An Act for extinguishing certain Rights of Way through Colewort Barracks, in the Borough of Portsmouth.

[23rd July, 1860.]

## CAP. L.

An Act to abolish the Annuity Tax in Edinburgh and Montrose, and to make Provision in regard to the Stipends of the Ministers in that City and Burgh, and also to make Provision for the Patronage of the Church of North Leith.

[23rd July, 1860.]

## CAP. LI.

An Act to provide for an Annual Return of Rates, Taxes, Tolls, and Dues levied for Local Purposes in England.

[23rd July, 1860.]

Sect. 1. Clerks of bodies empowered to levy rates, &c. to make annual returns to Secretary of State.

2. Returns to be made for the latest year for which accounts are made up.

3. Who are to make returns in certain cases.

4. Penalty for default.

5. Saving for returns already required.

6. Abstracts of returns to be laid before Parliament.

7. Poor-rate returns to be made to Poor-law Board as heretofore.

8. Saving for joint-stock companies and private rights of toll, &c.

## CAP. LII.

An Act to alter and amend the Metropolitan Building Act, 1855.

[23rd July, 1860.]

Sect. 1. *Short title.*

2. *Rules as to cubical dimensions of the Metropolitan Building Act, 1855, not to apply to buildings to be used for the manufacture of machinery and boilers of steam-vessels, provided that such buildings shall consist of one floor only &c.*

Sect. 1. This act may be cited for all purposes as "The Metropolitan Building Act, (Amendment), 1860."

2. The rules of the Metropolitan Building Act, 1855, limiting the cubical dimensions or contents of buildings used either wholly or in part for the purposes of trade or manufacture, shall not after the passing of this act apply to any building to be used wholly for the manufacture of the machinery and boilers of steam-vessels beyond the distance of three miles from St. Paul's Cathedral: provided always, that every such building shall consist of one floor only, and shall be constructed of brick, stone, iron, or other incombustible material; and it shall not be lawful for the owners, lessees, or occupiers thereof, or for any persons interested therein, to use such building for any other purpose than the manufacture of the machinery and the boilers of steam-vessels until all the rules and provisions of the said act, as to party-walls and other matters which are applicable to buildings of a similar character, shall have been duly complied with: provided also, that every such building, if of greater dimensions than 216,000 cubic feet, shall be subject to the approval of the Metropolitan Board of Works, in the same manner as iron buildings or buildings to which the rules of the said act are inapplicable, as set forth in the 56th section of such act.

## CAP. LIII.

An Act for the Limitation of Actions and Suits by the Duke of Cornwall in relation to Real Property, and for authorising certain Leases of Possessions of the Duchy.

[23rd July, 1860.]

Sect. 1. *Provisions of the 9 Geo. 3, c. 16, as to limitations of actions and suits, to extend to the Duke of Cornwall.*

2. *Nothing to affect the provisions of the 7 & 8 Vict. c. 105, the 2 & 3 Will. 4, c. 71, and the 2 & 3 Will. 4, c. 100.*

3. *The 21 & 22 Vict. c. 109. Power to council to grant leases of property declared to be vested in the Duke of Cornwall by the 21 & 22 Vict. c. 109.*

4. *Construction of the expression "Duke of Cornwall."*

Whereas, by an act passed in the 9 Geo. 3, c. 16, provision is made for limiting the right of the King's Majesty, his heirs and successors, to sue, impeach, question, or implead any person, body politic or corporate, for or concerning any manors, lands, tenements, rents, tithes, or hereditaments whatsoever, (other than liberties or franchises), or for or concerning the revenues, issues, or profits thereof, and for quieting possessions and titles against the Crown: and whereas an act was passed in the session holden in the 7 & 8 Vict. c. 105, "to confirm and enfranchise the estates of the conventional tenants of the ancient assessionable manors of the duchy of Cornwall, and to quiet titles within the county of Cornwall as against the duchy, and for other purposes," but the provisions of the said act for quieting titles within the county of Cornwall as against the duchy do not extend to any property, right, claim, or question of, to, or concerning navigable rivers, estuaries, ports, or branches of the sea, or the fundus or soil thereof respectively, or the shores between high and low water mark thereof respectively: and whereas it is expedient that as to hereditaments not within the county of Cornwall, and also as to such hereditaments within the said county as are excepted from the provisions of the said act of the 7 & 8 Vict., the limitation applicable to actions and

suits by the Crown should be made applicable to actions and suits by the Duke of Cornwall: be it therefore enacted &c. as follows:—

Sect. 1. All the provisions of the said act of the 9 Geo. 3, [c. 16], now applicable to her Majesty, her heirs and successors, shall extend and be applicable to the Duke of Cornwall, in like manner as if the same were re-enacted and the Duke of Cornwall were throughout mentioned or referred to where the "King's Majesty" or "his Majesty" is in the said act mentioned or referred to; subject nevertheless, as to the property and possessions included in this act, to the provisions contained in sects. 72 and 75 of the act of the 7 & 8 Vict. above referred to with respect to the property and possessions included therein.

2. Provided always, that nothing hereinbefore contained shall extend to the property or possessions in relation to which provision for the limitation of actions and suits and for quieting titles is made by the said act of the 7 & 8 Vict., [c. 105], or affect the provisions of the act of the session holden in the 2 & 3 Will. 4, c. 71, "for shortening the time of prescription in certain cases," or of the act of the same session of Parliament, c. 100, "for shortening the time required in claims of *modus decimandi* or exemption from or discharge of tithes."

3. And whereas, by the Cornwall Submarine Mines Act, 1856, it is enacted and declared, that all mines and minerals lying under the sea shore, between high and low water marks, within the said county of Cornwall, and under estuaries and tidal rivers and other places, (below high-water mark), even below low-water mark, being in and part of the said county, are, as between the Queen's Majesty in right of her crown on the one hand, and his Royal Highness Albert Edward Prince of Wales and Duke of Cornwall in right of his duchy of Cornwall on the other hand, vested in his said Royal Highness Albert Edward Prince of Wales and Duke of Cornwall in right of the duchy of Cornwall as part of the soil and territorial possessions of the said duchy, but this declaration is not to extend to the mines and minerals in or under land below high-water mark which is part and parcel of any manor belonging to her Majesty in right of her crown; and it is by the said act provided, that in that act, unless there is something in the context repugnant to such construction, the expression "mines and minerals" shall comprehend all mines and minerals, and all quarries, veins or beds of stone, and all substrata of any other nature whatsoever, and the ground and soil in, upon, and under which such mines and minerals, quarries, veins or beds of stone, and other substrata lie: be it further enacted, that in any case where it appears to the council of his Royal Highness Albert Edward Prince of Wales and Duke of Cornwall that any part of the land or hereditaments by the said Cornwall Submarine Mines Act declared to be vested in his said Royal Highness as part of the soil and territorial possessions of the duchy of Cornwall has been inclosed or otherwise improved by or at the expense of the person in the possession thereof, or of any person under whom he claims, it shall be lawful for the said council during the minority of his said Royal Highness to demise the land or hereditaments so improved, or any part thereof, for such term not exceeding ninety-nine years in possession, and subject to such rent, reservations, conditions, and agreements, as under the circumstances of the case may appear to the said council just and reasonable; and every such lease shall be made under the Great or Privy Seal of his said Royal Highness, and shall be enrolled in the office of the duchy of Cornwall.

4. In the construction of this act the expression "the Duke of Cornwall" shall include as well his Royal Highness Albert Edward, now Duke of Cornwall, as his predecessors and successors Dukes of Cornwall, and also the Queen's most Excellent Majesty and her predecessors and successors, Kings and Queens of England for the time being, entitled to the lands and possessions of the duchy of Cornwall, or the revenues thereof, during a vacancy of the duchy of Cornwall.

#### CAP. LIV.

An Act to amend an Act for abolishing certain Offices on the Crown Side of the Court of Queen's Bench, and for regulating the Crown Office. [6th August, 1860.]

Sect. 1. *As to the office of Assistant Master on the Crown side of the Queen's Bench.*

#### 2. Prescribing mode of filling up future vacancies in offices. Present vacancy in office of Master.

Sect. 1. That from and after the passing of this act the office of Assistant Master, now vacant, on the Crown side of the said court, shall be abolished, and the officers on the Crown side of the said court shall be the Queen's coroner and attorney and one Master.

2. Instead of the certificate required by the 3rd section of the hereinbefore recited act [6 & 7 Vict. c. 20] to be given by the Lord Chief Justice of the Court of Queen's Bench before filling up any vacancy in any such office, it shall be sufficient if the said Chief Justice shall certify, in the manner prescribed by the said act, that it is necessary for the efficient and satisfactory conduct of the business of the Crown side of the said court that such vacancy shall be filled up; such certificate to be made to the Commissioners of her Majesty's Treasury, and to be laid before Parliament, as by the said recited act is provided: provided always, that it shall be lawful for the said Lord Chief Justice to fill up the office of Master on the Crown side of the said court (such office being now also vacant) immediately after the passing of this act, and without certifying as last aforesaid.

#### CAP. LV.

An Act to authorise the Inclosure of certain Lands, in pursuance of a Special Report of the Inclosure Commissioners. [6th August, 1860.]

Sect. 1. Inclosures in schedule may be proceeded with.  
2. Short title.

#### SCHEDULE TO WHICH THIS ACT REFERS.

<i>Inclosure.</i>	<i>County.</i>	<i>Date of Provisional Order.</i>
Dorstone .....	Hereford .....	22nd December, 1859.
Oare .....	Somerset .....	22nd December, 1859.
Harborough Banks ..	Warwick .....	5th January, 1860.
Clawdd-Coch Common ..	Cardiff .....	19th January, 1860.
Bromesberrow .....	Gloucester .....	9th February, 1860.
Silton Commons .....	Dorset .....	23rd February, 1860.
Checkendon .....	Oxford .....	16th February, 1860.
Sarnau Common .....	Brecon .....	22nd December, 1859.
Ugre .....	Radnor .....	7th June, 1860.
Newton Nottage .....	Glamorgan .....	17th May, 1860.
Charlton in Wantage ..	Berks .....	17th June, 1858.

#### CAP. LVI.

An Act to make further Provision for Improvements in the Harbours of the Isle of Man. [6th August, 1860.]

Sect. 1. Power to harbour commissioners of Isle of Man to borrow money for effecting improvements in harbours.

2. Power to Public Works Loan Commissioners, acting under the 57 Geo. 3, c. 34, to lend money, notwithstanding anything in the 16 & 17 Vict. c. 40.

3. Power to Treasury to give directions for giving effect to the security, &c.

4. Securities not to be affected by certain informalities.

5. Money borrowed on sums applicable under sect. 355 of the 16 & 17 Vict. c. 107, to be applied to works determined by the Court of Twynwald.

6. Consent of Admiralty to be signified before works are commenced.

7. Power to Admiralty to remove abandoned works.

#### CAP. LVII.

An Act to authorise an Extension of the Time for Repayment of a Loan made by the West India Relief Commissioners to the Island of Dominica. [6th August, 1860.]

Sect. 1. Power to Treasury to accept an annuity in lieu of monies due in respect of balance of loan due from Dominica.

#### CAP. LVIII.

An Act to amend the Act of the Eighteenth and Nineteenth Years of Her Majesty relating to Friendly Societies. [6th August, 1860.]

Sect. 1. *In case of dissolution of society under sect. 18 of the 18 & 19 Vict. c. 63, not necessary to state in*

- agreement intended division of funds; but may refer the same to the award of the registrar.*
- 2. *Registrar's award to be conclusive, without appeal.*
- 3. *Evidence of dissolution.*
- 4. *Registrar's annual report to contain particulars of awards.*
- 5. *Provisions as to societies dissolved before passing of this act.*
- 6. *Sect. 8 of the 21 & 22 Vict. c. 101, repealed.*
- 7. *Penalty for not making annual return to registrar in compliance with sect. 6 of the 9 & 10 Vict. c. 27.*
- 8. *If accounts not made to commissioners, pursuant to sect. 34 of the 18 & 19 Vict. c. 63, interest thereon to cease until accounts made.*
- 9. *Application on behalf of society may be made by registrar.*
- 10. *This and Friendly Societies Acts to be construed as one.*

Sect. 1. In case of the dissolution of a society, according to the provisions of the 13th section of the act passed in the 18 & 19 Vict. c. 63, it shall not be necessary to state in the agreement the intended appropriation or division of the funds or other property, but it shall be lawful to the members, if they shall think fit, to refer such appropriation or division to the award of the registrar; and in case application shall be made in writing by the members of a society, not being less in number than five-eighths of the whole body thereof, setting forth that the funds of such society are insufficient to meet the claims thereon, with the grounds upon which such insufficiency can be proved, it shall be lawful for the registrar to investigate the same; and if upon such investigation he shall find that the said society is in an insolvent condition, and that it would conduce to the interests of all parties concerned that the affairs of the society should be wound up and brought to a termination, he shall make an award to that effect, and shall direct in what manner the funds and property of the society shall be divided or appropriated, and it shall not be necessary in such case that the provisions of the said 13th section be complied with; provided that previous to such investigation the registrar shall give not less than twenty-one days' notice in writing, to be sent by post to the trustees, secretary, or other officer of such society, at the place where such society holds its meetings.

2. Every award so made as aforesaid by the registrar shall be final and conclusive on all members and other persons having any claim on the funds of the said society, without appeal, and shall be enforced in the same manner as by sect. 41 of the said act is provided for enforcing the award of arbitrators; and the expenses of such award, and of publishing the notice of dissolution in the Gazette, shall be paid out of the funds of the society before any appropriation thereof shall be made.

3. When any agreement for the dissolution of a society authorised by sect. 13 of the said act shall be transmitted to the registrar, and when any award authorised to be made by this act shall be made by the registrar, notice thereof shall, within twenty-one days after the same shall have been so transmitted or made respectively, be advertised by the registrar, as respects societies in England in the London Gazette, as respects societies in Scotland in the Edinburgh Gazette, and as respects societies in Ireland in the Dublin Gazette; and unless within three calendar months from the date of the Gazette in which such advertisement shall appear a member or other person interested in or having any claim on the funds of the society shall commence proceedings to set aside the dissolution of the society consequent upon such agreement or award, the society shall be considered for all intents and purposes, and in all courts of law and equity, as legally dissolved, and the requisite consents to such agreement, or, as the case may be, to the application to the registrar, to have been duly obtained, without proof of the signatures thereto.

4. The registrar in his next annual report submitted to Parliament shall set forth the particulars of every award made under the provisions of this act which he may have made during the preceding twelve months.

5. In regard to societies which have been dissolved before the passing of this act, if notice of any agreement for the dissolution of such society already transmitted to the regi-

trar, or of any award made under sect. 13 of the said act, shall, within three months after the passing of this act, be advertised in such Gazette as aforesaid, the provisions of sect. 3 of this act shall apply in the same way as if such agreement and award had been transmitted and made subsequent to the passing of this act.

6. The 8th section of the act passed in the 21 & 22 Vict. c. 101, is hereby repealed; but where, previously to the passing of this act, any application has been made to the registrar respecting the dissolution of a society under the said section, such society shall be dissolved in the same manner and with the same incidents as if this act were not passed, and for the purposes of such dissolution the said section shall be deemed to remain in full force.

7. If default shall be made in transmitting to the registrar, before the 1st June in each year, the general statement or copy of the last annual report of any society, in compliance with the provisions of sect. 45 of the act of the session of the 18 & 19 Vict. c. 63, the officer making such default shall be liable to a penalty not exceeding 20s., to be recovered, with costs, at the suit of the registrar, before two or more justices, as to England, in manner directed by an act passed in the session holden in the 11 & 12 Vict. c. 43, intitled "An Act to facilitate the Performance of the Duties of Justices of the Peace out of Sessions within England and Wales with respect to summary Convictions and Orders;" and as to Scotland, before two or more justices or the sheriff of the county, in manner directed by the act passed in the session of Parliament holden in the 17 & 18 Vict. c. 104, intitled "An Act to amend or consolidate the Acts relating to Merchant Shipping," as regards offences in Scotland against that act, not being offences by that act described as felonies or misdemeanours; and as to Ireland, in manner directed by the act passed in the session holden in the 14 & 15 Vict. c. 93, intitled "An Act to consolidate and amend the Acts regulating the Proceedings of Petty Sessions, and the Duties of Justices of the Peace out of Quarter Sessions, in Ireland," or any act passed for the amendment of the above-mentioned acts; and the justices or sheriff imposing any penalty under this act may direct the whole or any part thereof to be applied in or towards payment of the costs of the proceedings; and, subject to such direction, all penalties shall be paid into the receipt of Her Majesty's Exchequer, in such manner as the Treasury may direct, and shall be carried to and form part of the Consolidated Fund of the United Kingdom of Great Britain and Ireland.

8. If the accounts and returns required from certain friendly societies by the Commissioners for the Reduction of the National Debt, pursuant to sect. 34 of the said act, be not made within thirty days after the same have been required, the account of the said society shall be closed by the said commissioners, and thenceforth no interest shall be credited to such society thereon, until such accounts and returns shall be furnished to the said commissioners, or the money be withdrawn.

9. Any application authorised by sect. 24 of the said recited act to be made by any person on behalf of a society may be made by the registrar.

10. This act and the Friendly Societies Acts, 1855 and 1858, shall be construed as one act, and may be cited together for all purposes as "The Friendly Societies Acts."

#### CAP. LIX.

An Act to extend the Provisions of the Universities and College Estates Act, 1858, and of the Copyhold Acts, and of the Acts of the 3 & 4 Vict. c. 113, and the 17 & 18 Vict. c. 84, so far as the same relate to Universities and Colleges. [6th August, 1860.]

Sect. 1. *Power to raise monies by mortgage, by way of compensation for loss of fines on non-renewal of leases.*

2. *Form of order to be issued by Copyhold Commissioners evidencing their consent.*

3. *Lands once leased at rack-rent not thereafter to be leased upon fines.*

4. *Amendment of certain provisions of the Copyhold Acts with respect to universities and colleges.*

5. *Power to transfer lands vested in individual members of universities or colleges to the university or college in its corporate capacity, upon like trusts,*



6. *Two Copyhold Commissioners to form a board for the exercise of powers under the 21 & 22 Vict. c. 44.*
7. *Extension of certain provisions of the 3 & 4 Vict. c. 113, with respect to universities and colleges.*
8. *Provision as to right of patronage severed.*
9. *Stat. 8 & 9 Vict. c. 18, incorporated.*
10. *The Ecclesiastical Commissioners constituted the authority referred to.*
11. *Power to substitute land, or other permanent endowment, in lieu of annual rents or other payments, in extension of certain provisions of stat. 17 & 18 Vict. c. 84.*
12. *Interpretation of terms.*
13. *Short title.*

Sect. 1. Whenever any lease of any lands belonging to the Universities of Oxford, Cambridge, or Durham respectively, or any college therein respectively, or the Colleges of St. Mary of Winchester, near Winchester, or of King Henry the Sixth at Eton, the leases of which have been customarily renewed on payment of a fine, shall, from any cause whatever, (other than the refusal of the university or college, entitled to the reversion of such lands, to accept such a sum of money, by way of fine, as shall be deemed reasonable by the Copyhold Commissioners, and shall be tendered by the lessee at the first and each successive time of renewal after the commencement of this act, or within three months of such time, for the renewal of any lease theretofore regularly renewed), remain unrenewed at any customary period of renewal, or whenever any loss of fines shall have been occasioned by the surrender of any lease upon any transaction, by way of sale or exchange, between the said universities or colleges and their lessees, under the 4th section of the Universities and College Estates Act, 1858, it shall be lawful for the said universities and colleges respectively, from time to time, with the consent of the Copyhold Commissioners, (such consent to be evidenced by an order to be issued under their hands and the common seal of their board), to raise, by mortgage of any lands belonging to such university or college for any term of years, (determinable as hereinafter provided), such sum or sums of money (together with all reasonable costs and expenses incidental to such raising) as shall be required, and be stated in such order, with interest thereon, not exceeding the rate to be specified in such order, for the purpose of paying, by way of indemnity, to the then existing members of such university or college, the same amount of money which would have accrued to the said members if any such lease as aforesaid had been renewed in manner theretofore accustomed: provided always, that the said power of raising monies by mortgage shall not be exercised for the purpose of providing for the loss of more than two fines in respect of the same lands, and that, upon the creation of any such mortgage, provision shall be made by such university or college, with the approval of the said Copyhold Commissioners, for the discharge of the borrowed monies by some or one of the modes prescribed by the 28th section of the Universities and College Estates Act, 1858, or otherwise, so and in such manner as that the principal money to be borrowed at each customary period of renewal, in respect of the same lands, may be discharged with the meane interest of such money within, or at the expiration of, thirty years from the borrowing thereof: provided also, that in every such mortgage there shall be contained a proviso, that when the whole of such principal monies, interest, and costs shall be discharged, the mortgage term thereby created shall absolutely cease: provided always, that after any sum shall have been raised, under the power hereinbefore contained, in lieu of the fines payable in respect of any lease of any lands, no fine shall thenceforth be taken for the renewal or grant of any lease of the same lands.

2. The order to be issued by the said commissioners pursuant to the foregoing provisions shall be similar to the "form of order authorising a mortgage" contained in the schedule to the said Universities and College Estates Act, 1858, with such variations only as the circumstances of the case shall necessarily require.

3. Where any lands belonging to any such university or college as aforesaid shall at any time have been leased at the best and most improved yearly rent, without fine, no fine, premium, or foregift, or anything in the nature thereof, shall thereafter be taken by such university or college for the grant or renewal of any lease of the same lands.

4. And whereas it is expedient that certain provisions of the Copyhold Acts, so far as the same provisions relate to universities and colleges, should be amended and explained as hereafter provided: be it further enacted, that where any manor belonging to any of the Universities of Oxford, Cambridge, and Durham respectively, or any college therein respectively, or the Colleges of St. Mary of Winchester, near Winchester, or King Henry the Sixth at Eton, shall be held by any person or persons on lease for a life or lives, or for a term of years, granted by any such university or college, the university or college entitled to such manor in reversion expectant on such lease, and the lessee thereof as aforesaid, shall jointly constitute "the lord" of such manor within the meaning of the Copyhold Acts; and all consideration monies payable to the lord of any such manor under the same acts shall be dealt with in the manner directed by the 39th section of the Copyhold Act, 1852, or the 16th section of the Copyhold Act, 1858, (due notice of any such dealing being previously given to the university or college entitled as aforesaid), until the time when the reversionary interest of such university or college in the manorial rights of such manor would, if the same had not been extinguished, have come into possession, when the said consideration monies, or any securities in which the same may have been invested, shall, upon petition to the Court of Chancery or on application to the trustees in whom the same shall then be vested, (as the case may be), be paid or transferred to the Copyhold Commissioners to the account of the university or college entitled thereto, in the same manner and to be applied for the same purposes as enfranchisement monies payable for the benefit of any university or college are directed to be paid and applied by the 1st section of the Universities and College Estates Act, 1858.

5. When any lands shall be vested in any person or persons, being a member or members of any of the said universities or colleges, in trust or for the benefit of the university or college, or the head or any other member thereof, it shall be lawful for such person or persons (with the consent of the said Copyhold Commissioners, to be signified by any writing under their hands and the common seal of their board) to convey and transfer such lands in such manner as that the same may be vested in the university or college in its corporate capacity, upon the trusts nevertheless affecting the same lands respectively.

6. Any two of the Copyhold Commissioners shall form a board for the exercise of the powers and authorities conferred on the said commissioners by the Universities and College Estates Act, 1858, and this act; and any order, power of attorney, or other instrument issued or executed pursuant to the provisions of the said acts, which shall have been or shall hereafter be signed by any two of the said commissioners, and sealed with the common seal of their board, shall be valid and sufficient for all purposes whatsoever.

7. And whereas it is expedient that the provisions of the act of the 3 & 4 Vict. c. 113, and also of the act of the 17 & 18 Vict. c. 84, so far as the same relate to universities and colleges, should be extended and amended as hereafter provided: be it further enacted, that sect. 60 of the said act of the 3 & 4 Vict. shall be construed to extend to and shall include as well benefices with cure of souls as ecclesiastical rectories, prebends, and other preferments without cure of souls, advowsons, and rights of patronage, whether exclusive or alternate, inappropriate rectories, and other lands and hereditaments annexed or belonging to, or held either wholly or partly by or in trust for, any of the Universities of Oxford, Cambridge, and Durham, or any college therein respectively, or either of the Colleges of St. Mary of Winchester, near Winchester, and of King Henry the Sixth at Eton, or the head or any other member of any such college, and also to extend to, and to include and to authorise, sales by each of the same universities, as well as each of the colleges therein respectively, and the said Colleges of St. Mary of Winchester, near Winchester, and of King Henry the Sixth at Eton; and shall also be construed to enable the said universities or colleges to sell advowsons of benefices, the patronage whereof shall be vested in any person or persons in trust for any of the said universities or colleges, or for the benefit of the head or any other member thereof respectively, and also to authorise, under the authority hereinafter mentioned, the annexation of the whole or any part of the lands or other hereditaments or endowments belonging to any such ecclesiastical rectory, prebend,

or other preferment without cure of souls, impropriate rectories, and other lands and hereditaments aforesaid, or the application of the proceeds of any sale thereof, and also the application of the proceeds of any sale of advowsons and rights of patronage, or any part of the proceeds of any such sales, which may be made under the said section of the said last-mentioned act, or the Universities and College Estates Act, 1858, or under any other authority, or of any monies, stocks, funds, or securities belonging to such university, college, head, or member, by way of endowment or augmentation of any benefice with cure of souls, the patronage whereof shall belong to, or be held in trust for, or for the benefit of such university or college, or the head or other member thereof: provided nevertheless, that the powers conferred by this clause shall not be exercised to the prejudice of the existing interest of any such head or other member of a college without his consent; and in case of any diminution being occasioned in the income of any such head or other member of a college by any sale, annexation, purchase, or investment that may be made under the provisions of the said acts, arrangements may be made under the like authority for giving to such head or other member adequate compensation for such diminution of his income out of the revenues of such college, or out of the proceeds of any such sale or investment; and the said section of the said last-mentioned act shall extend to authorise, under the like authority, the purchase out of any of the corporate funds or revenues of any such university or college of advowsons of benefices, and also of any rights of perpetual presentation or nomination to benefices, whether such benefices be or be not annexed to, or held by or in trust for, any of the said universities, or any such college as aforesaid, or the head or other member of any such college, to be added to those in the patronage of such university or college; and the words "colleges" and "college" in the said section of the last-mentioned act shall include the cathedral or house of Christ Church in Oxford; and the words "proper securities" in the same section shall be construed to extend to authorise and shall include the purchase of lands in fee-simple, and also an investment on any of the parliamentary stocks or public funds of Great Britain; and all such securities, lands, and stocks or funds shall be settled, held, applied, or disposed of in such manner as by the university or college effecting such sale, purchase, or investment, and by the like authority, shall be arranged and determined in that behalf; and every endowment or augmentation which shall be made by any university or college of any benefice with cure of souls under the authority of this section, or by virtue of the provisions of the act of the 1 & 2 Will. 4, c. 45, or any other act or acts of Parliament, shall be valid, notwithstanding the clear annual value of such benefice shall at the time of such endowment or augmentation exceed, or be thereby made to exceed, the limits prescribed by the 16th section of the said act of the 1 & 2 Will. 4, or any other act or acts of Parliament: provided, that no such augmentation or endowment beyond the clear annual value of 500*l.* shall be made under the said act of the 1 & 2 Will. 4, except with the consent of the Ecclesiastical Commissioners for England, (to be testified by writing under their common seal), in addition to such other consents as may be otherwise required thereto.

8. On the sale or annexation under the last preceding clause of any ecclesiastical rectory, prebend, or other preferment without cure of souls, or of any impropriate rectory to which any right of patronage shall belong, and which is not intended to be included in such sale or to accompany such annexation, such right of patronage shall immediately after such sale or annexation be separated from and be no longer exercised by the holder of such ecclesiastical rectory, prebend, or other preferment without cure of souls, or impropriate rectory, but shall by force of this act be absolutely transferred to and vested in the university or college, the former patrons or owners of such ecclesiastical rectory, prebend, or other preferment or impropriate rectory.

9. The Lands Clauses Consolidation Act, 1845, (except such parts thereof as relate to the purchase of lands otherwise than by agreement, and to the recovery of forfeitures, penalties, and costs, and to the sale of superfluous lands), shall be incorporated with and form part of the said act. 69 of the said act of the 3 & 4 Vict. c. 113, as extended by this act, and as if the corporate name or denomination of the university or college in each particular case had been inserted

therein instead of "the promoters of the undertaking:" provided that the powers by the said act vested in "the promoters of the undertaking" shall be exercised only by such university or college with the consent of the Ecclesiastical Commissioners for England testified as aforesaid.

10. "The authority" hereinbefore and in the said act of the 3 & 4 Vict. provided shall, so far as relates to universities and colleges, be and be deemed to be "the Ecclesiastical Commissioners for England," and such authority shall be deemed to be sufficiently exercised and evidenced by any writing under their common seal.

11. Where any rent or annual sum of money granted, reserved, or made payable, or to be granted, reserved, or made payable, under any of the powers of the said act of the 17 & 18 Vict. c. 84, or of the several acts therein mentioned, or otherwise, to the incumbent of any church or chapel, by way of endowment, or in augmentation of the endowment, of any such church or chapel, is or shall be charged upon or made payable out of any rectory impropriate tithes, annual revenues, lands, tenements, or other hereditaments belonging to any of the said universities or colleges respectively, it shall be lawful for the said universities and colleges respectively, with the consent of the incumbent for the time being of the said church or chapel, and also with the consent of the archbishop or bishop of the diocese within which the said church or chapel shall be situate, and also of the patron or patrons of the said church or chapel, (such consent to be signified by the said consenting parties respectively executing the deed or deeds hereinafter mentioned), and notwithstanding any statute or law to the contrary, by deed duly executed, to appropriate and annex in perpetuity to such church or chapel any lands, tithes, or portion of tithes, or other hereditaments belonging to any such university or college as aforesaid, to the intent that the same may be held and enjoyed by the incumbent for the time being of such church or chapel in lieu of and substitution for such rent or annual sum of money as aforesaid; and it shall be lawful for the said incumbent for the time being to accept, to him and his successors, such substituted endowment or augmentation, and thereupon, by the same or any other deed duly executed by him, and with such consents, and so signified as aforesaid, to release any impropriate rectory tithes, annual revenues, lands, tenements, or other hereditaments theretofore charged with the said rent or annual sum of money, and the premises so released shall be thenceforth wholly discharged from the said rent or sum of money, and from all powers and remedies for the recovery thereof: provided always, that no consent of any archbishop or bishop shall be given to any such annexation and release respectively as aforesaid, unless such substituted endowment or augmentation shall be proved to the satisfaction of the said archbishop or bishop to produce an income which shall exceed or be fully equal to the rent or annual sum of money for which the same shall be substituted, and be expressed to be so proved in the deed by which such consent shall be signified: provided also, that when any lands, tithes, or portions of tithes, or other hereditaments, which shall be so annexed as aforesaid, shall be comprised in any subsisting lease or leases previously granted thereof, such annexation shall not prejudice or affect any such subsisting lease or leases; but in every such case any rent or rents reserved by any such lease or leases, or a proportionate part thereof, (in case other hereditaments shall also be comprised in such lease or leases), shall, during the continuance of the said lease or leases, be payable to the incumbent for the time being of the church or chapel to which the premises shall be annexed as aforesaid, and such incumbent for the time being shall have all the same powers for the recovery of the said rent or rents, or of the proportionate part thereof, as aforesaid, as the university or college by whom the annexation shall have been made might have had in case the premises had not been so annexed.

12. This act shall be read and construed according to the definitions and interpretations contained in the 31st and 32nd sections of the Universities and College Estates Act, 1858; and the word "college" in the said act of the 3 & 4 Vict. and in this act shall be interpreted to include any "hall" in the said universities, or either of them.

13. It shall be sufficient for all purposes to cite this act as "The Universities and College Estates Act Extension, 1860."

## CAP. LX.

An Act to amend the Act for regulating the Queen's Prison.  
[6th August, 1860.]

Sect. 1. *Prisoners sent to Bethlehem Hospital, under the 5 & 6 Vict. c. 22, may be removed when they would have been entitled to their discharge from the prison.*

2. *Lunatics removed from Bethlehem, under this act, to be within the provisions of the Lunacy Acts.*

Sect. 1. Where any prisoner has been removed from the Queen's Prison to the said hospital of Bethlehem under the recited enactment, and has not been duly certified to have become of sound mind, but the term of his imprisonment has expired, or, by reason of the discharge of his debts or otherwise, such prisoner, if he had been of sound mind, and had continued in the Queen's Prison, would have been entitled to be discharged, it shall be lawful for one of her Majesty's Principal Secretaries of State, if he so think fit, by his warrant directed to the president, treasurer, and governors of Bethlehem Hospital, upon the application of any person who shall be named in such warrant, to order the removal of such prisoner to any other registered hospital, or to any lunatic asylum or house licensed for the reception of lunatics, or to the care or charge of any person mentioned or named in such warrant for this purpose; and every such warrant shall be made in duplicate, and one of the duplicates shall be delivered to and left with the superintendent of the said hospital of Bethlehem, and the other duplicate shall be delivered to and left with the superintendent or proprietor of the hospital, asylum, or house into which, or the person into whose care or charge, the prisoner is ordered to be removed; and such warrant shall be a sufficient authority for the removal of such prisoner, and also for his reception into the hospital, asylum, or licensed house into which, or by the person into whose care or charge, he is ordered to be removed; and thereafter the authority of the Secretary of State, in relation to the prisoner so removed, shall cease.

2. Any prisoner removed under this act to any hospital, asylum, or licensed house, or into the care or charge of any person other than the person upon whose application the warrant of the Secretary of State is mentioned to have been made, shall be considered and treated as an ordinary lunatic patient, under the acts for the regulation of the care and treatment of lunatics; and the said applicant for the warrant shall have the same powers, rights, and liabilities as if he had signed an order for the reception of the lunatic under the said acts, upon which such lunatic had been lawfully received into such asylum, registered hospital, or licensed house, or by the person into whose care or charge he is removed.

## CAP. LXI.

An Act for taking the Census of England.

[6th August, 1860.]

Sect. 1. Secretary of State to superintend the taking of the census.

2. Registrars' sub-districts to be formed into enumerators' divisions.

3. Enumerators to be appointed.

4. Householders' schedules to be left at dwelling-houses. Occupiers to fill up the schedules, and sign and deliver them to the enumerator. Penalty for neglect.

5. Schedules to be collected from house to house, and corrected if found to be erroneous.

6. Enumerators to take an account of houses, &c., and to distinguish the boundaries of parishes, boroughs, &c. Enumerators to deliver their books, with the householders' schedules, to the registrar.

7. Registrars to verify the enumerators' books.

8. Superintendent registrars to examine the enumerators' books, and return them to the registrar-general.

9. An abstract of returns to be printed, and laid before Parliament.

10. Masters, &c. of gaols, &c. to be appointed enumerators of the inmates thereof.

11. Overseers, peace officers, and relieving officers of unions formed under the 4 & 5 Will. 4, c. 76, bound to act as enumerators.

12. Returns of houseless poor, and of persons travelling or on shipboard.

13. Table of allowances to enumerators in England.

14. Payments to be certified to the registrar-general.

15. Manner in which the payments shall be made to persons employed in execution of this act in England.

16. Penalty on persons for wilful default.

17. Penalty for refusing information or giving false answers.

18. Recovery and application of penalties.

19. Interpretation of terms.

## CAP. LXII.

An Act for taking the Census of Ireland.

[6th August, 1860.]

Sect. 1. Account of population to be taken.

2. Construction of terms.

3. By whom the account shall be taken.

4. Masters, &c. of gaols, &c. to be appointed enumerators of the inmates thereof.

5. Forms, &c. to be furnished for their use.

6. Power to make the inquiry.

7. Penalty for refusing to answer, or for giving false answers.

8. Penalty on persons employed, if guilty of wilful default or neglect.

9. Proceedings, how to be taken, and penalties recovered and applied. Application of fines and penalties imposed.

10. The persons taking the accounts to certify and affirm as to their correctness, and deliver them to the officer appointed to receive them. Such officer to transmit them to the office of the Chief Secretary. An abstract thereof to be laid before Parliament.

11. Punishment of persons wilfully making false affirmation or declaration.

## CAP. LXIII.

An Act to amend the Act of the 21 & 22 Vict. c. 49, to provide for the Relief of Her Majesty's Subjects professing the Jewish Religion.  
[6th August, 1860.]

Sect. 1. Whenever the House of Commons shall order that any resolution agreed to pursuant to the 1st section of the said recited act in the same session shall be a Standing Order of the House, any member professing the Jewish religion may thenceforth be sworn pursuant to such Standing Order, so long as the same shall continue in force; and it shall be lawful for such member, in taking and subscribing the oath which by the act of the 21 & 22 Vict. c. 48, was substituted for the oaths of allegiance, supremacy, and abjuration, to omit the words "and I make this declaration upon the true faith of a Christian," and the taking and subscribing by such member, pursuant to such Standing Order, of the oath so modified, shall, so far as respects the title to sit and vote in such House, have the same force and effect as the taking and subscribing by other members of the said oath in the form required by the last-mentioned act.

## CAP. LXIV.

An Act to make further Provision for the Expenses of Local Boards of Health and Improvement Commissioners acting as Burial Boards.  
[6th August, 1860.]

Sect. 1. *Expenses of local board constituted a burial board may be paid out of general district rate, or by a separate rate.*

2. *Expenses of improvement commissioners, when acting as a burial board, may be paid out of improvement rate, or by a separate rate.*

3. *Separate accounts to be kept.*

4. *As to appointment of burial boards without consent of Secretary of State.*

Sect. 1. Any money required by any local board constituted a burial board for defraying the expense of carrying into execution the powers and provisions of the Burial Acts and of this act in the district for which they may have been so constituted a burial board, or for paying any monies borrowed or annuities granted under the authority of the said acts, or any interest on monies borrowed, or for providing a sinking fund for the repayment of such monies, may, if the local board so think fit, be paid out of the general district rates leviable within such district; and such local board may levy, as part of the general district rate, or by a separate rate,

under the name and designation of a burial rate, to be assessed and recovered in like manner as a general district rate, within the district for which they act as a burial board, such sums of money as shall be from time to time necessary for the purposes aforesaid, or any of them.

2. Any money required by any such commissioners as aforesaid, who shall have been constituted a burial board, for defraying the expense of carrying into execution the powers and provisions of the Burial Acts in the district for which they may have been so constituted a burial board, or for paying any monies borrowed or annuities granted under the authority of the said acts, or any interest on monies borrowed, or for providing a sinking fund for the repayment of such monies, may, if the commissioners so think fit, be paid out of the improvement rate leviable within such district; and the commissioners, as such burial board, may levy, as part of the improvement rate, or by a separate rate under the name and designation of a burial rate, to be assessed and recovered in like manner as an improvement rate, such sums of money as shall be from time to time necessary for the purposes aforesaid, or any of them.

3. The local board and the commissioners respectively who may have been constituted a burial board shall keep distinct accounts of their receipts and expenditure in the exercise of their functions as such burial board; and where their expenses are defrayed by monies raised under the provisions of this act, such accounts shall be audited in the same manner as other accounts of the receipts and expenditure of such local board and commissioners respectively, and any surplus of the monies raised by any rate made under this act, and of the income of any burial ground provided by means of monies raised or paid under the provisions of this act, which may remain after payment of the expenses and monies which should be defrayed or paid under the Burial Acts, shall be applied in aid of the general district rate or improvement rate, as the case may be, levied within the district which shall have been or might have been charged with a separate rate under this act.

4. Where any parish or place has been divided into two or more parts or districts for all or any ecclesiastical purposes, and any one of such parts has a separate burial ground, it shall not be lawful for the vestry, or meeting in the nature of a vestry, for such entire parish or place to appoint a burial board without the approval of one of her Majesty's Principal Secretaries of State.

## CAP. LXV.

An Act to authorise the Commissioners of the Treasury to further regulate the Postage on redirected Letters of Commissioned and Warrant Officers, Seamen, and Soldiers whilst on actual Service. [6th August, 1860.]

SECT. 1. Power to Treasury, by warrant, to authorise private letters of commissioned and non-commissioned officers, &c. to be delivered free of the foreign postage chargeable in respect of redirection; or to reduce rates of British or colonial postage.

2. London Gazette to be evidence of due issuing of such warrant.

3. Act to be deemed a post-office act.

4. Commencement of act.

## CAP. LXVI.

An Act to amend the Medical Act, 1858.

[6th August, 1860.]

SECT. 1. *Interpretation of terms.*

2. *New charters may be granted to the colleges.*

3. *Colleges to retain all existing rights, notwithstanding change of name.*

4. *Colleges to hold property, notwithstanding change of name.*

5. *Provisions in the 14 & 15 Hen. 8, c. 5, as to the elects, repealed.*

6. *Election of the president of the Royal College of Physicians of London.*

SECT. 1. The expression in the Medical Act and this act "the Corporation of the Royal College of Physicians of London," or "the Royal College of Physicians of London," shall be taken to denote the corporation of "the President and College or Commonalty of the Faculty of Physic in London."

2. Any new charter which, under the provisions of the Medical Act, shall be granted to the corporation of the Royal College of Physicians of London, may be granted to them either by and in the name of the Royal College of Physicians of London, or, as provided by that act, by and in the name of the Royal College of Physicians of England; and any such new charter granted to the corporation of the Royal College of Physicians of Edinburgh may be granted to that college either by and in its present name, or, as provided by the Medical Act, by and in the name of the Royal College of Physicians of Scotland; and any such new charter granted to the corporation of the King and Queen's College of Physicians in Ireland may be granted to that college either by and in its present name, or, as provided by the Medical Act, by and in the name of the Royal College of Physicians of Ireland.

3. The granting of new charters to the said corporations respectively by and in the altered names and styles respectively, as provided in the Medical Act, shall not, in respect of such alteration of name or style merely, alter or affect in any way the rights, powers, authorities, qualifications, liberties, exemptions, immunities, duties, and obligations granted, conferred, or imposed to or upon, or continued and preserved to, the said corporations respectively, and the respective presidents, censors, fellows, members, and licentiates thereof, by the respective charters and acts of Parliament relating to the said corporations respectively, or by the Medical Act, the act to amend the Medical Act, the Medical Acts Amendment Act, 1860, and this act respectively; but the said corporations respectively, and the respective presidents, censors, fellows, members, and licentiates thereof, shall, notwithstanding any such change of name and style, have and retain all such and the same rights, powers, authorities, qualifications, liberties, exemptions, and immunities, and be subject to all such and the same duties and obligations, as if such new charters respectively had been granted to them by and in their respective names and styles as then existing.

4. Each of the said corporations shall also, notwithstanding any such alteration of name or style, have, hold, and enjoy, and continue to have, hold, and enjoy, all lands and other real and personal, heritable and moveable, property belonging to such corporation, either beneficially or in trust, at the date of the granting of such new charter, and may execute and perform any use or trust for the time being vested or reposed in such corporation.

5. So much of the act of the 14 & 15 Hen. 8, c. 5, as relates to the elects of the said Royal College of Physicians of London, and their powers and functions, shall be and the same is hereby repealed, but this repeal shall not prejudice or affect the rights and privileges of any persons to whom the said president and elects may have granted letters testimonial; and all trusts which by any deed, gift, devise, or bequest are vested in, or to be executed or performed by, the elects, or some defined number of them, shall vest in and accrue to, and be executed and performed by, the censors of the said college for the time being as if the name of the censors had in such instruments respectively been used instead of that of the elects, and the office and name of elects of the said college shall henceforth wholly cease and determine.

6. The office of president of the Royal College of Physicians of London shall be an annual office; and Thomas Mayo, Doctor of Physic, the now president of the said corporation, shall remain such president until the day next after Palm Sunday in the year 1861, when he shall go out of office; and the fellows of the said corporation shall, at a meeting to be holden by them for that purpose, on the same day, and on the same day in every subsequent year, elect some one of the fellows of the said corporation in such manner as shall be provided by any by-law or by-laws made in that behalf by the said corporation, and for the time being in force, to be president of the said corporation, but the retiring president shall always be capable of being re-elected, and every president shall remain in office until the actual election of a new president; or in case of the death, resignation, or other avoidance of any such president before the expiration of his year of office, the said fellows shall, at a meeting to be holden by them for that purpose, as soon as conveniently may be, (of which due notice shall be given), elect one other of the fellows of the said corporation in such manner as aforesaid to be president for the remainder of the year in which such death, resignation, or other avoidance shall hap-

pen, and until such election the duties of president shall be performed by the senior censor for the time being.

## CAP. LXVII.

An Act to continue an Act for authorising the Application of Highway Rates to Turnpike Roads.

[6th August, 1860.]

## CAP. LXVIII.

An Act for the better Management and Control of the Highways in South Wales.

[6th August, 1860.]

Sect. 1. Repealed act repealed, but repeal not to affect districts or appointments.

2. Districts may be altered from time to time.

3. Power to county roads board to appoint and dismiss surveyors.

4. Transfer of property and powers vested in existing surveyors of highways to highway boards.

5. Duties of district surveyor.

6. Powers and responsibilities of surveyor.

7. Highways to be continued under the care and management of existing local boards.

8. Highway boards to hold four ordinary meetings every year. Special meetings may be holden.

9. Adjournment of meetings.

10. Notice of special meetings and of meetings by adjournment.

11. Chairman and vice-chairman to be elected.

12. Quorum. Authentication of orders.

13. Defect of election, &c. of members not to vitiate proceedings.

14. Power to highway boards to appoint clerks.

15. Appointment of treasurer.

16. Salaries of clerk and treasurer, how to be paid.

17. Power to dismiss clerk, &c.

18. Two offices not to be held by the same person.

19. Highway boards to have the management of the highways.

20. Highway board may contract to repair highways within districts of local boards, &c.

21. Expenses of highway board, how to be defrayed.

22. Overseers to levy rates for raising the money required by highway board.

23. Power to highway board to direct paid collectors of poor rate to collect highway rate.

24. Restriction in amount of rates.

25. Overseers, on non-payment of the rate, shall be distrained upon.

26. Special persons may be appointed to levy rates on default of overseers.

27. Accounts to be made up to the 25th March, and statement to be published.

28. Statement to be sent to Secretary of State. Penalty for neglect.

29. Abstract of statements to be laid before Parliament.

30. Secretary of State may cause form of statement to be prepared, and alter forms prescribed by the 12 & 13 Vict. c. 35.

31. Councils of boroughs having commissions of the peace may by resolution assume the powers of highway boards.

32. Where resolution passed, council to have powers of highway board.

33. No parochial surveyor to be appointed after the passing of this act.

34. Accounts of existing surveyors to be passed according to present law, and money and effects to be paid and delivered to their successors appointed under this act.

35. Surveyor of highway board exempted from turnpike tolls.

36. Power to highway board to order their surveyor to repair certain roads, and charge the parties liable for the same.

37. Power to justices to order certain highways to be made. Highways to be repaired &c. by the parishes.

38. Provisions for discontinuance of maintenance of unnecessary highways.

39. Regulations as to the adoption of new roads to be maintained as public roads under this act.

40. Proceedings in case highways are not kept in repair. Power to justices to order highways to be repaired at the

expense of the parties liable. If money not paid, the same to be levied by distress.

41. Width of roads to be maintained when they cease to be turnpike roads.

42. Acts required to be done at special sessions for highways may be done at petty sessions.

43. Provisions of the 5 & 6 Will. 4, c. 50, to remain in force, except as otherwise provided.

44. Act to extend only to South Wales.

45. Interpretation of terms.

## CAP. LXIX.

An Act to enable the Ecclesiastical Commissioners for England to apply certain Funds towards the Repairs of the Cathedral or Collegiate Church of Manchester.

[6th August, 1860.]

Sect. 1. Authorising the appropriation of certain funds to the restoration or repair of the cathedral church at Manchester.

2. Except as hereby authorised, the said cathedral church to be maintained as by the said act prescribed &c.

## CAP. LXX.

An Act to confirm certain Provisional Orders made under an Act of the Fifteenth Year of Her present Majesty, to facilitate Arrangements for the Relief of Turnpike Tracts.

[6th August, 1860.]

Sect. 1. Provisional orders confirmed.

## SCHEDULE.

<i>Date of Provisional Order.</i>	<i>Title of Local Act.</i>	<i>Amount of Principal Debt.</i>	<i>Interest to be reduced to the following Rates per Annum.</i>	<i>Arrangements of Interest to be extinguished to the following Dates.</i>
1859. 11 Nov.	2 Geo. 4, c. 50.—"An Act for more effectually repairing the Road from the North End of a Lane called Rosemary-lane, in the Township of Broughton, to the Town of Mold, in the County of Flint, and for diverting a Part of the said Road, and for making a new Branch of Road to communicate with the said Road."	£ 2044 s. 6	41. per Cent.	31 Dec. 1859.
1860. 4 April.	54 Geo. 4, c. 4.—"An Act for enlarging the Term and Powers of Two Acts of His present Majesty, for repairing the Road from the West End of St. Ives-lane, in the Town of St. Neots, in the County of Huntingdon, to the Pavement, at the End of Bell-lane, in the Town of Cambridge."	3778 9	31. per Cent.	24 June, 1853.

## CAP. LXXI.

An Act to make Provision as to Stock and Dividends unclaimed in Ireland.

[6th August, 1860.]

Sect. 1. Provisions as to unclaimed stock and dividends to extend to stock transferable at the Bank of Ireland.

2. Notice by advertisements in Ireland before retransfer or payment of dividend.

## CAP. LXXII.

An Act to promote and facilitate the Endowment and Augmentation of small Benefices in Ireland.

[6th August, 1860.]

Sect. 1. Short title.

2. Construction of terms.

3. When benefice is of less value than 50*l*., an endowment of not less than 75*l*. may be made &c. Patronage of such benefice to be vested in trustees.

## CAP. LXXIII.

An Act to continue certain Turnpike Acts in Great Britain, and to extend the Provisions of the Act of the 14 & 15 Vict. c. 38. [6th August, 1860.]

Sect. 1. All Turnpike Acts expiring before the end of the next session continued to the 1st October, 1861, except stats. 54 Geo. 3, c. lix, and 4 Geo. 4, c. xlviii.

2. Acts in schedule continued till the 1st November, 1861.

3. Provisions of the 14 & 15 Vict. c. 38, extended to cases herein named.

4. Short title.

## CAP. LXXIV.

An Act to amend the Provisions of the Act for the Regulation of Municipal Corporations in Ireland, with respect to the Appointment of Coroners in Boroughs. [6th August, 1860.]

Sect. 1. Town councils of certain boroughs respectively may appoint a coroner. No person to be appointed who is not qualified as under sect. 153 of recited act.

2. Part of sect. 155 of the 3 & 4 Vict. c. 108, repealed.

## CAP. LXXV.

An Act to make better Provision for the Custody and Care of Criminal Lunatics. [6th August, 1860.]

Sect. 1. Her Majesty may appoint asylum for criminal lunatics.

2. Secretary of State may direct criminal lunatics to be confined in the asylum.

3. Nothing to affect the authority of the Crown to make other provision for the custody of a criminal lunatic.

4. Secretary of State to appoint council of supervision and officers for asylums.

5. Secretary of State to make rules for the government of the asylum.

6. Subject to such rules, council to superintend asylum.

7. Provision as to removal and discharge of lunatics.

8. Provision for discharge of persons confined after their term of imprisonment has expired.

9. Secretary of State may permit any lunatic to be absent from asylum on trial, &c.

10. Provisions of the 3 & 4 Vict. c. 54, as to expenses of conveyance and maintenance, to apply to this act.

11. Lunatics escaping may be retaken by superintendent, &c.

12. Punishment of persons for rescue or permitting escape.

13. Penalty on officers or servants ill-treating lunatics.

14. Commissioners in Lunacy to visit asylums.

15. And report to Secretary of State.

## CAP. LXXVI.

An Act to amend the Burial Grounds (Ireland) Act, 1856. [6th August, 1860.]

Sect. 1. Provisions of recited act to be extended to additions to existing burial-grounds.

2. When burial-ground not fenced or kept in decent order by owner, burial board may serve a notice requiring the same to be fenced &c.

3. After six months from service of notice, &c. burial board empowered to fence burial-ground, and keep the same in order, and take the management.

4. Burial boards may accept the management of burial-grounds.

5. Act to be construed as one act.

## CAP. LXXVII.

An Act to amend the Acts for the Removal of Nuisances and the Prevention of Diseases. [6th August, 1860.]

Sect. 1. Sects. 3, 6, 7, and 9 of the 18 & 19 Vict. c. 121, repealed.

2. Local authority to execute the Nuisances Removal Act.

3. Highway board or nuisances removal committees now subsisting may be continued so long as they employ sanitary inspectors.

4. How expenses of local authority to be defrayed.

5. Board of guardians may appoint committees for particular parishes.

6. Saving for the vestries and district boards of the metropolis.

7. Wells, &c. belonging to any place vested in local authority, &c.

8. Penalty for fouling water.

9. Appointment of inspectors of nuisances.

10. Sects. 2 and 3 of the 18 & 19 Vict. c. 116, repealed.

11. Guardians and overseers of the poor to be the local authorities for executing the Diseases Prevention Act.

12. Local authorities may provide carriages for conveyance of infected persons.

13. Justices, on the application of householders, may order the removal of nuisances.

14. Guardians may procure sanitary reports, and pay for the same.

15. Interpretation of terms.

16. Justices not incapable of acting by being members of bodies to execute the Nuisances Removal Act.

Nuisances Removal.

Sects. 1. Sects. 3, 6, 7, and 9 of the said Nuisances Removal Act for England, 1855, shall be repealed: provided always, that such repeal as aforesaid shall not extend to any charges or expenses already incurred, but the same may be defrayed and recovered, and all proceedings commenced or taken under the said act, and not yet completed, may be proceeded with, and all contracts under the said act shall continue and be as effectual as if this act had not been passed.

2. The following bodies shall respectively be the local authority to execute the said Nuisances Removal Act in the districts hereunder stated in England:

In any place within which the Public Health Act is or shall be in force, the local board of health:

In any other place wherein a council exists or shall exist, the mayor, aldermen, and burgesses by the council, except in the city of London and the liberties thereof, where the local authority shall be the commissioners of sewers for the time being, and except in the city of Oxford and borough of Cambridge, where the local authority shall be the commissioners acting in execution of the Local Improvement Act in force respectively in the said city and borough:

In any place in which there is no local board of health or council, and where there are or shall be trustees or commissioners under an improvement act, such trustees or commissioners:

In any place within which there is no such local board of health, council, body of trustees, or commissioners, if there be a board of guardians of the poor for such place, or for any parish or union within which such place is situate, such board of guardians, and, if there be no such board of guardians, the overseers of the poor for such place, or for the parish of which such place forms part.

3. Provided, that in any place where a highway board, or the nuisances removal committee chosen by the vestry in pursuance of the said act, is subsisting, and at the time of the passing of this act employs, or joins with other local authorities in employing, a sanitary inspector or inspectors, such highway board or nuisances removal committee may continue to act, and a like committee may be annually chosen by the vestry for such place in the same manner as if this act had not been passed; but in case in any year the nuisances removal committee be not chosen for such place in manner provided by the said act, or if the highway board or committee now subsisting, or hereafter chosen, fall for two months in any year to appoint or employ a sanitary inspector or inspectors, the authority of such highway board or committee shall cease, and no like committee shall be chosen for such place, and the same body or persons shall thenceforth be the local authority for the place, as if no such highway board or committee had been appointed therein.

4. All charges and expenses incurred by the local authority in executing the said Nuisances Removal Act, and not recovered as therein provided, shall be defrayed as follows; to wit,

Out of general district rates where the local authority is a local board of health:

Out of the borough fund or borough rate where the local authority is the mayor, aldermen, and burgesses, by the council :

Provided always, that in the city of Oxford and borough of Cambridge such expenses shall be deemed annual charges and expenses of cleansing the streets of the said city and borough respectively, and shall be so payable :

Out of the rates levied for purposes of improvement under any Improvement Act, where the local authority is a body of trustees or commissioners acting in execution of the powers of such an act :

Where a board of guardians for a union is such local authority for the whole of such union, such charges and expenses shall be defrayed by means of an addition to be made to the rate for the relief of the poor of the parish or parishes for which the expense has been incurred, and be raised and paid in like manner as money expended for the relief of the poor :

Where the board of guardians for a union is such local authority for two or more places maintaining their own poor, but not for all such places in such union, such charges and expenses shall be paid out of the poor rates of the places aforesaid for which the board is the local authority :

Where the board of guardians for a union is under this act the local authority for a single place maintaining its own poor, and where the board of guardians for any such single place, or the overseers of any such place, or the nuisances removal committee continued or chosen as hereinbefore provided in any such place, are under this act the local authority for such place, such charges and expenses shall be defrayed out of the rates for the relief of the poor thereof :

Where the board of guardians for a union is under this act the local authority for part only of any place maintaining its own poor, together with the whole of any other such place, or part of any other such place, such board shall apportion such charges and expenses between or among any or every such part, and any or every such place; and so much of such charges and expenses as may be apportioned to any or every such place, for the whole of which such board is the local authority, shall be defrayed out of the rates or funds applicable to the relief of the poor thereof :

So much of any such charges and expenses as may be apportioned to part of a place maintaining its own poor, and any such charges and expenses incurred by any board of guardians or overseers, where such board or overseers are the local authority for part of any such place only, shall be defrayed by means of an addition to be made to the rate for the relief of the poor thereof, and be raised and paid in like manner as money expended for the relief of the poor.

5. Provided, that the board of guardians for a union may appoint a committee or committees of their own body, under sect. 5 of the said Nuisances Removal Act, to act in and for one or more of the parishes or places for which the board is the local authority; and every committee so appointed shall have the full power of executing the said act in all respects, within the specified place or places for which it is appointed, unless its power be expressly limited by the terms of its appointment; and the board of guardians shall cause the charges and expenses of every such committee to be paid out of the poor rates of the place or places for which such committee is appointed; and where a committee is so appointed for any such place or places, the charges and expenses of the board, as local authority for or in respect of the place or places for which a committee is not appointed, shall be paid or contributed by such last-mentioned place or places in like manner as the expenses of a committee; provided that where any one such committee is appointed for all the places for which the board is the local authority, its charges and expenses shall be contributed and paid in like manner as the charges and expenses of the board would have been contributed and paid if such committee had not been appointed.

6. Provided also, that as regards the metropolis, the vestries and district boards under the act of the session holden in the 18 & 19 Vict. c. 120, within their respective parishes and districts, shall continue and be the local authorities for the execution of the said Nuisances Removal Act, and their

charges and expenses shall be defrayed as if this act had not been passed.

7. All wells, fountains, and pumps provided under sect. 50 of the Public Health Act, 1848, or otherwise, for the use of the inhabitants of any place, and not being the property of or vested in any person or corporation other than officers of such place, shall be vested in the local authority under this act for such place, who shall from time to time cause to be kept in good repair and condition, and free from pollution, all wells, fountains, and pumps vested in them under this act, and may also keep in good repair and condition, and free from pollution, other wells, fountains, and pumps dedicated to or open to the use of the inhabitants of such place.

8. If any person do any act whatsoever whereby any fountain or pump is wilfully or maliciously damaged, or the water of any well, fountain, or pump is polluted or fouled, he shall, upon summary conviction of such offence before two justices, forfeit a sum not exceeding 5*l.* for such offence, and a further sum, not exceeding 20*s.*, for every day during which such offence is continued after written notice from the local authority in relation thereto; but nothing herein contained shall extend to any offence provided against by sect. 23 of the said Nuisances Removal Act.

9. Local authorities under this act may, for the purposes of the act, severally appoint or employ inspectors of nuisances, and make such payments as they see fit for the remuneration and expenses of such inspectors.

#### *Diseases Prevention.*

10. Sects. 2 and 3 of the Diseases Prevention Act, 1855, and every other enactment constituting a local authority for the execution of the same act, or providing for the expenses of the execution thereof, except those contained in the 18 & 19 Vict. c. 120, (the Metropolis Local Management Act), shall be repealed.

11. The board of guardians for every union, or parish not within an union, in England, shall be the local authority for executing the said Diseases Prevention Act in every place within their respective unions and parishes; and in every parish and place in England not within a union, and for which there is no board of guardians, the overseers of the poor shall be the local authority to execute the same act; and the expenses incurred in the execution of such act by the board of guardians for a union shall be defrayed out of the common fund thereof, and the expenses of the board of guardians or overseers of the poor of any single parish or place shall be defrayed out of the rates for the relief of the poor of such parish or place; provided that every such board of guardians shall, for the execution of the said Act for the Prevention of Diseases, have the like powers of appointing committees, with the like authority; and where any such committee is appointed, the expenses thereof and of the board shall be paid in the same manner as hereinbefore provided where such a board is the local authority for the execution of the said Nuisances Removal Act: provided also, that any expenses already incurred by any local authority in the execution of the said act shall be defrayed as if this act had not been passed: provided moreover, that in respect of any place where, under this act, the local authority for executing the Nuisances Removal Act is any other body than the board of guardians or the overseers of the poor, the Privy Council, if it see fit, may, in the manner provided for the exercise of its powers under the Public Health Act, 1858, authorise such other body to be, instead of the board of guardians or the overseers of the poor, the local authority for executing the Diseases Prevention Act: provided also, that, as regards the metropolis, the vestries and district boards, under the act of the 18 & 19 Vict. c. 120, within their respective parishes and districts, shall continue to be the local authorities for the execution of the said Diseases Prevention Act, 1855, and their charges and expenses shall be defrayed as if this act had not been passed.

12. It shall be lawful for the local authority for executing the said Diseases Prevention Act to provide and maintain a carriage or carriages suitable for the conveyance of persons suffering under any contagious or infectious disease, and to convey such sick and diseased persons as may be residing within such locality to any hospital or other place of destination, and the expense thereof shall be deemed to be an expense incurred in executing the said act.

13. Upon complaint before a justice of the peace, by any



inhabitant of any parish or place, of the existence of any nuisance on any private premises in the same parish or place, such justice shall issue a summons requiring the person by whose act, default, permission, or sufferance the nuisance arises, or, if such person cannot be found or ascertained, the owner or occupier of the premises on which the nuisance arises, to appear before two justices in petty sessions assembled at their usual place of meeting, who shall proceed to inquire into the said complaint, and act in relation thereto as in cases where complaint is made by a local authority, under sect. 12 of the said Nuisances Removal Act, and as if the person making the complaint were such local authority: provided always, that it shall be lawful for the said justices, if they see fit, to adjourn the hearing or farther hearing of such summons for an examination of the premises where the nuisance is alleged to exist, and to require the admission, or authorise the entry, into such premises of any constable or other person or persons; and thereupon the person or persons authorised by the order of the justices may enter and act as the local authority might under a like order made by any justice under sect. 11 of the said act: provided also, that the costs in the case of every such application shall be in the discretion of the justices, and payment thereof may be ordered and enforced as in other cases of summary adjudication by justices: any order made by justices under this enactment shall be attended with the like penalties and consequences for disobedience thereof, and subject to the like appeal, as any order made under sect. 12 of the said Nuisances Removal Act; and the justices making such order may thereby authorise any constable, or other person or persons, to do all acts for removing or abating the nuisance condemned or prohibited, and for executing such order, in like manner as a local authority obtaining the like order might do under the said act, and to charge the costs to the person on whom the order is made, as is provided in the case where a like order is obtained and executed by such local authority.

14. The guardians of any union, or parish not within an union, may at any time employ one of their medical officers to make inquiry and report upon the sanitary state of their union or parish, or any part thereof, and pay a reasonable compensation for the same out of their common fund.

15. The several words used in this act shall be construed in the same manner as is declared with reference to the same words in the above cited act, termed "The Nuisances Removal Act for England, 1855," and all the provisions therein, and in "The Diseases Prevention Act, 1855," contained, shall respectively be applicable to this act, except so far as they shall be hereby repealed, or be inconsistent with anything herein provided.

16. No justice of the peace shall, unless objected to at the hearing of any complaint or charge, be deemed incapable of acting in cases other than appeals arising under the said Nuisances Removal Act, by reason of his being a member of any body hereby declared to be the local authority to execute the said act, or by reason of his being a contributor, or liable to contribute, to any rate or fund out of which it is hereby provided that all charges and expenses incurred in executing the said act, and not recovered as therein provided, shall be defrayed.

#### CAP. LXXVIII.

An Act to place the Employment of Women, Young Persons, and Children in Bleaching Works and Dyeing Works under the Regulations of the Factories Acts.

[6th August, 1860.]

Sect. 1. *Recited acts to apply to bleaching and dyeing works, and to the employment of females, young persons, and children therein.*

2. *Females and young persons may be employed until half-past four o'clock on Saturdays, and until eight o'clock on other days, but not so as to exceed in any period of six months and part of another month the total number of hours allowed by this act, &c.*

3. *Restriction as to time females and young persons are to be employed on Saturdays and on other days.*

4. *Females and young persons may be employed during the night in case of suspension of employment by deficiency or excess of water in the stream, Saturday night excepted.*

5. *Occupiers who employ females and young persons, according to the provisions of this act, to keep registers in the form given in the schedules annexed hereto.*

6. *As to employment of females and young persons who have not been before employed in bleaching or dyeing works, &c.*

7. *Interpretation of terms.*

8. *Amendment of sect. 28 of stat. 7 & 8 Vict. c. 15, as to notice of time lost intended to be recovered.*

9. *Act not to apply to premises used solely for purposes declared in the 8 & 9 Vict. c. 29, regulating labour of children in print works.*

10. *Certain provisions of Factories Acts not to extend to bleaching &c. works.*

11. *Hours of work defined.*

12. *Provisions in Factories Acts as to meal times not to extend to this act.*

Whereas it is the practice of some of the occupiers of bleaching works and dyeing works to keep females, young persons, and children at work during the night, and an unreasonable number of hours during the day: and whereas such practices are not necessary to the successful carrying on of those trades, but are very injurious to the health and morals of the females, young persons, and children employed therein, and it has become necessary to regulate the employment of such people, and to provide for the education of such children: and whereas an act was passed in the 3 & 4 Will. 4, [c. 103], intituled "An Act to regulate the Labour of Children and Young Persons in the Mills and Factories of the United Kingdom:" and whereas an act was passed in the 7 & 8 Vict. [c. 15], intituled "An Act to amend the Laws relating to Labour in Factories:" and whereas an act was passed in the 10 & 11 Vict. [c. 29], intituled "An Act to limit the Hours of Labour of Young Persons and Females in Factories:" and whereas an act was passed in the 13 & 14 Vict. [c. 54], intituled "An Act to amend the Acts relating to Labour in Factories:" and whereas an act was passed in the 16 & 17 Vict. [c. 104], intituled "An Act further to regulate the Employment of Children in Factories:" and whereas an act was passed in the 19 & 20 Vict. [c. 38], intituled "An Act for the further Amendment of the Laws relating to Labour in Factories:" be it therefore enacted &c, as follows:—

Sect. 1. That from and after the 1st August, 1861, the powers and provisions of the hereinbefore recited acts shall apply, and be held to apply, to bleaching works and dyeing works, except works in which the operation of bleaching by the open-air process is the only operation of bleaching carried on, and to the employment of females, young persons, and children in bleaching works and dyeing works, except as aforesaid, to all intents and purposes as completely and effectively as if such bleaching works and dyeing works had been mentioned and included in the provisions of the hereinbefore recited acts, or any of them, except as is hereinafter provided: provided nevertheless, that until the 1st August, 1862, it shall be lawful to employ females above the age of eighteen years and young persons in bleaching works and dyeing works until eight of the clock at night on every working day except Saturdays, and until half-past four of the clock in the afternoon on Saturdays.

2. Provided also, that after the said 1st August, 1862, it shall be lawful to employ females above the age of eighteen years and young persons in bleaching works and dyeing works, in every case where the employment of such females and young persons, as regulated by the hereinbefore recited acts or any of them, or by this act, shall have been suspended or time shall have been lost in consequence of fluctuations in trade, the nature of the process, or any other cause, in recovering time so lost, until half-past four of the clock in the afternoon on Saturdays, and until eight of the clock at night on other days: provided that by means of such employment the whole time which such females and young persons, or any of them, shall have been employed during the then present calendar month and the then last past six calendar months, do not exceed the total number of hours which such females and young persons may lawfully be employed according to the provisions of the 1st section of this act and of the provisions of the recited acts.

3. It shall not be lawful in any case, after the said 1st

12. The provisions contained in the Factories Acts fixing the times for the meals of the workpeople employed in factories shall not extend to workpeople employed in bleaching works or dyeing works.

[illegible]

## SCHEDULE (B.)

Register of the longest time which any female or young person has been employed on each day of the month ending [February 18th, 1860], by [John Armstrong and Company], at the [Fir Trees] Bleaching Works or Dyeing Works, situate in the township of [Hopeton], in the county of [Lancaster.]

	Monday.		Tuesday.		Wednesday.		Thursday.		Friday.		Saturday.	
	Hrs.	Min.	Hrs.	Min.	Hrs.	Min.	Hrs.	Min.	Hrs.	Min.	Hrs.	Min.
(1860).												
Week ending (January 28).....												
Week ending (February 4).....												
Week ending (February 11) ....												
Week ending (February 18) ....												

## CAP. LXXIX.

An Act to provide additional Accommodation for the Sheriff Courts in Scotland. [6th August, 1860.]

- Sect. 1. Short title.
2. Interpretation of terms.
3. Representation may be made to the Secretary of State of inadequacy of existing court-houses.
4. Representation, with intimation of opinion of Secretary of State, to be sent to the clerk of supply.
5. Meeting of commissioners of supply to be called and held within one month after the receipt of intimation, and burghs may send representatives.
6. Commissioners of supply may adopt resolution to proceed, or otherwise.
7. Secretary of State to dispose of resolution.
8. Decision of Secretary of State to be intimated to the clerk of supply.
9. Plans and specifications to be deposited in sheriff clerk's office for public inspection.
10. Plans and specifications to be approved by the Secretary of State.
11. On plans and specifications being approved of, buildings to be proceeded with.
12. The 8 & 9 Vict. c. 18, incorporated.
13. Court-houses vested in commissioners of supply.
14. Agreements may be made for use of court-houses by other parties.
15. One-half of the expense of buildings to be defrayed out of monies provided by Parliament, and the other half by assessment.
16. Expenses of management and repair to be defrayed out of monies provided by Parliament.
17. Additional sum may be contributed in circuit towns.
18. As to disposal of court-houses ceasing to be used.
19. Assessments to be imposed on lands and heritages.
20. Regulations as to payment of small assessments.
21. Commissioners of supply may grant relief from assessment in cases of poverty.
22. County of Lanark to be divided into four districts for assessment under this act.
23. Mode of recovering assessments.
24. Disputes as to assessments to be summarily settled.
25. Clauses of the 10 & 11 Vict. c. 18, respecting mortgages, incorporated.
26. Power to borrow on mortgage.
27. Power to borrow on cash credit.
28. Monies raised &c. to be applied to the purposes of this act.
29. Quorum of commissioners of supply.
30. Preses of meetings.
31. Authentication of documents relating to the execution of this act.
32. Actions by or against commissioners of supply, how to be brought, and not to abate.

## CAP. LXXX.

An Act to regulate the Levying and Collection of the Inventory Duty payable upon Heritable Securities and other Property in Scotland. [6th August, 1860.]

- Sect. 1. Money secured on heritable property in Scotland and Scottish bonds, excluding executors, to be liable to inventory duty.
2. Duty, and interest thereon, shall be a debt to her Ma-

jeaty, to be payable by the person who shall take money secured.

3. Stamped special inventory to be lodged on oath with the Solicitor of Inland Revenue at Edinburgh.

4. Money so secured may be added to inventory of personal or moveable estate. As to return of duty on the ground of debts. Duty paid on the aggregate amount to be ultimately borne by the parties according to their beneficial interest.

5. Property for payment of inventory duty shall be valued at the date of the affidavit to the inventory.

6. Power to grant a return of duty under circumstances herein stated.

7. Intromitters, &c. to be held to have taken money so secured.

8. Money secured on land by absolute conveyance, and adjudication, and otherwise, to fall under the provisions of the act.

9. Recited act repealed to a certain extent.

## CAP. LXXXI.

An Act to continue Appointments under the Act for consolidating the Copyhold and Inclosure Commissions, and for completing Proceedings under the Tithe Commutation Acts. [6th August, 1860.]

Sect. 1. Powers of appointment of commissioners, &c., under the 14 & 15 Vict. c. 53, continued.

## CAP. LXXXII.

An Act to amend the Provisions of the Common-law Procedure (Ireland) Act Amendment, 1853. [6th August, 1860.]

Sect. 1. Provisions of recited act, enabling judges to make orders in respect of stock, &c. standing in name of Incumbered Estates Court, to apply to the Landed Estates Court, (Ireland).

## CAP. LXXXIII.

An Act to explain an Act of the Eighteenth and Nineteenth Years of her present Majesty, enabling Infants, with the Approbation of the Court of Chancery, to make binding Settlements of their Real and Personal Estate on Marriage. [6th August, 1860.]

The preamble recites the 18 & 19 Vict. c. 43.

Sect. 1. In the interpretation of the said recited act, and for all the objects and purposes thereof, the words "Court of Chancery" shall include and be taken to include the Court of Chancery in Ireland; and all orders made and approbations already given by the Court of Chancery in Ireland, in cases provided for and contemplated by the said act, shall be as valid and binding in law as if the words "the Court of Chancery in Ireland" had been expressly contained in the said act in all places where the words "the Court of Chancery" are mentioned therein.

## CAP. LXXXIV.

An Act for preventing the Adulteration of Articles of Food or Drink. [6th August, 1860.]

Sect. 1. Penalty on persons selling articles of food or drink knowing the same to be injurious to health. As to subsequent offences.

2. *Protection against articles of food and drink being tampered with by purchaser.*
3. *Power to appoint analysts.*
4. *Power to purchasers of articles of food and drink to have them analysed. Certificate of analyst made evidence.*
5. *Power to justices to have articles of food and drink analysed.*
6. *Appeal to quarter sessions.*
7. *Where conviction within six days of quarter sessions, time allowed for appeal.*
8. *Persons convicted of selling adulterated patented articles may have a case stated for opinion of superior court.*
9. *Procedure in cases under this act. Application of monies.*
10. *Proceedings in Ireland as to complaints, &c. to be subject to the provisions of the 14 & 15 Vict. c. 93, and the 21 & 22 Vict. c. 100.*
11. *Appeal to quarter sessions.*
12. *As to expenses of executing act.*
13. *Indictment or other remedy not affected.*
14. *Interpretation of terms.*

Sect. 1. Every person who shall sell any article of food or drink with which, to the knowledge of such person, any ingredient or material injurious to the health of persons eating or drinking such article has been mixed, and every person who shall sell as pure or unadulterated any article of food or drink which is adulterated or not pure, shall for every such offence, on a summary conviction of the same before two justices of the peace at petty sessions in England, and in Scotland before two justices of the peace in justice of the peace court, or before the sheriff substitute of the county, or before justices at petty sessions or a divisional justice in Ireland, forfeit and pay a penalty not exceeding 5*l.*, together with such costs attending such conviction as to the said justices shall seem reasonable; and if any person so convicted shall afterwards commit the like offence, it shall be lawful for such justices to cause such offender's name, place of abode, and offence to be published, at the expense of such offender, in such newspaper or in such other manner as to such justices shall seem desirable.

2. On the hearing by the justices of any complaint under this act in any district, county, or borough wherein any analyst shall have been appointed, the purchaser shall prove to the satisfaction of such justices that the seller of the article of food or drink alleged to be adulterated, or his servants, had such notice of the intention of the purchaser to have such article analysed, and also such opportunity of accompanying the purchaser to an analyst appointed by this act, as the justices shall think reasonable, in order to secure such article from being tampered with by the purchaser.

3. In the city of London and the liberties thereof the commissioners of sewers of the city of London and the liberties thereof, and in all other parts of the metropolis the vestries and district boards acting in execution of the Act for the better Local Management of the Metropolis, in England and Ireland the court of quarter sessions of every county, and the town council of every borough having a separate court of quarter sessions, and in Scotland the commissioners of supply at their ordinary meetings for counties, and town councils within their several jurisdictions, may from time to time, for their respective city, districts, counties, or boroughs, appoint and remove one or more persons possessing competent medical, chemical, and microscopical knowledge, as analysts of all articles of food and drink purchased within the said city, metropolitan districts, counties, or boroughs, and may pay to such analysts such salary or allowances as they may think fit; but such appointments and removals shall at all times be subject in Great Britain to the approval of one of her Majesty's Principal Secretaries of State, and in Ireland to that of the Lord Lieutenant.

4. Any purchaser of any article of food or drink in any district, county, city, or borough where there is any analyst appointed under this act, shall be entitled, on payment to the analyst of a sum not less than 2*s.* 6*d.* nor more than 10*s.* 6*d.*, to have any such article analysed by any analyst who may be appointed for such district, county, city, or borough, and to receive from such analyst a certificate of the result of his analysis, specifying whether, in his opinion, such article is

adulterated, and also whether it is so adulterated as to be injurious to the health of persons eating or drinking the same; and such certificate, duly signed by such analyst, shall, in the absence of any evidence to the contrary, be sufficient evidence before the justices or in any court of justice of the matters therein certified, and the sum so directed to be paid for such certificate shall be deemed part of the costs.

5. The justices before whom any complaint may be made under this act may, in their discretion, cause any article of food or drink to be examined and analysed by such skilled person as they may appoint for that purpose, who may be required to give evidence of the same at the hearing of the case; and the expense thereof, and of such examination and analysis, if not paid by the complainant or party complained against, shall be deemed part of the expenses of executing this act, but nevertheless such expense may be ordered by such justices to be paid by the party so complaining or complained against, as they shall think proper.

6. Any person who has been convicted of any offence punishable by this act by any justices may appeal to the next general or quarter sessions of the peace which shall be held for the city, county, town, or place wherein such judgment or conviction shall have been made; or in the case of the conviction having been before a sheriff substitute in Scotland, then the appeal shall be to the sheriff of the county; provided that such person enter into a recognisance within two days next after such conviction, with two sufficient sureties, conditioned to try such appeal, and to be forthcoming to abide the judgment and determination of the court at such general or quarter sessions, or sheriff, and to pay such costs as shall be by such court awarded; and the justices before whom such conviction shall be had are hereby empowered and required to take such recognisance; and the court at such general or quarter sessions, or sheriff, are hereby authorised and required to hear and finally determine the matter of every such appeal, and may award such costs to the party appealing or appealed against as they shall think proper.

7. If any such conviction or judgment or order of forfeiture shall happen to be made within six days before any general or quarter sessions of the peace shall be held for the city, county, town, or place wherein such conviction shall have been made, the person who shall think himself aggrieved by any such conviction may, on entering into a recognisance in manner and for the purposes before directed, be at liberty to appeal either to the then next or next following general or quarter sessions of the peace which shall be held for any such city, county, town, or place wherein any such conviction shall have been made, on giving six days' notice to the complainant of his intention to appeal.

8. Any person who shall have been convicted by any justices or sheriff substitute of any offence punishable by this act, in respect of the selling of any article of food or drink which shall have been manufactured according to any process patented before the passing of this act, either by the patentee or owner of the patent, or by any person carrying on his business or otherwise claiming under him during the continuance of such patent, may, instead of appealing to the general or quarter sessions of the peace or sheriff of the county, apply in writing, within five days after such conviction, to the justices or sheriff substitute, to state and sign a case for the opinion of one of the superior courts of law thereon, in like manner as under the stat. 20 & 21 Vict. c. 43, he might have applied to the justices to state and sign a case, and thereupon all such proceedings shall take place upon and in relation to such application, and all such provisions shall be applicable thereto, as would have taken place upon and in relation thereto, and been applicable thereto, under the provisions of the said last-mentioned act; and in Scotland, for the purposes of such appeal, the justices or sheriff substitute may state and sign a case for the opinion of the Court of Session, in like manner as the justices in England and Ireland may for the opinion of the superior courts of law under the said act, and the Court of Session shall have in relation thereto the like powers as the superior courts have under the said act, and all the other provisions of the said act shall be applicable to such appeals.

9. In England the provisions in the Nuisance Removal Act for England, 1855, as to procedure, and the provisions of the stat. 11 & 12 Vict., intitled "An Act to facilitate the Performance of the Duties of Justices of the Peace and of

Session within England and Wales with respect to summary Convictions and Orders," and in Scotland the ordinary rules regulating the procedure of justices of the peace, so far as the same are respectively applicable, shall extend and apply to cases arising under this act in England or Scotland; and all monies arising from penalties under this act in any county, city, district, or borough where there are analysts appointed under this act shall, when paid or recovered, be paid in England and Ireland to the vestry, district board, commissioners, county treasurer, or town council for such county, city, district, or borough respectively, to be applied for the general purposes of such vestry, district board, commissioners, county, city, or borough respectively, and to the collector of rogue money for each county in Scotland.

10. All proceedings under this act in Ireland as to compelling the appearance of any such person or of any witness, and as to the hearing and determination of such complaints, and as to the making and executing of such orders, and as to the applications of fines, amerciaments, and forfeited recognisances imposed or levied under this act at petty sessions, shall be subject in all respects to the provisions of the Petty Sessions (Ireland) Act, 1851, as the same is amended by the Petty Sessions Clerk (Ireland) Act, 1858, (when the case shall be heard in any petty sessions district), and to the provisions of the acts relating to the divisional police offices, (when the case shall be heard in the police district of Dublin metropolis), so far as the said provisions shall be consistent with any special provisions of this act; and when any fine or penalty is imposed at any of the divisional police offices of Dublin metropolis, or by the justices in any corporate town, under the provisions of this act, such fines and penalties shall be paid over to the same purposes, and appropriated and applied in the same manner, as is now by law authorised in respect of fines and penalties imposed at such divisional police offices, or by the justices in any such corporate town respectively.

11. In Ireland any person who has been convicted of any offence punishable by this act may appeal to the next court of quarter sessions to be held in the same division of the county where the order shall be made by any justice or justices in any petty sessions district, or to the recorder at his next sessions where the order shall be made by the divisional justices in the police district of Dublin metropolis, or to the recorder of any corporate or borough town when the order shall be made by any justice or justices in such corporate or borough town, (unless when any such sessions shall commence within seven days from the date of any such order, in which case, if the appellant sees fit, the appeal may be made to the next succeeding sessions to be held for such division or town); and it shall be lawful for such court of quarter sessions or recorder, as the case may be, to decide such appeal, if made in such form and manner, and with such notices, as are required by the Petty Sessions Acts respectively hereinbefore mentioned as to appeals against orders made by justices at petty sessions; and all the provisions of the said Petty Sessions Acts respectively as to making appeals and as to executing the orders made on appeal, or the original orders where the appeals shall not be duly prosecuted, shall also apply to any appeal or like order to be made under the provisions of this act.

12. The expense of executing this act shall be borne, in the city of London and the liberties thereof, out of the consolidated rates raised by the commissioners of sewers of the city of London and the liberties thereof, in the rest of the metropolis out of any rates or funds applicable to the purposes of the Act for the better Local Management of the Metropolis, and in counties out of the county rate, and in boroughs out of the borough fund, or out of the rogue money in counties in Scotland.

13. Nothing in this act contained shall be held to affect the power of proceeding by indictment, or to take away any other remedy against any offender under this act.

14. In the construction of this act the words "articles of food or drink" shall (if not inconsistent with the context or subject-matter) include not only all alimentary substances, whether solids or liquids, but also all eatables or drinkables whatsoever, not being medical drugs or articles usually taken or sold as medicines; but this act shall not be construed so as to affect the ordinary reduction of the strength of foreign, British, or colonial spirits by persons licensed and paying duties under the excise.

## CAP. LXXXV.

An Act to amend Two Acts of the Seventeenth and Eighteenth Years, and of the Eighteenth Year, of Her present Majesty, relating to the Registration of Births, Deaths, and Marriages in Scotland. [6th August, 1860.]

- Sect. 1. Certain sections of recited acts repealed.
2. Register of neglected entries.
3. Correction of errors in registers kept prior to the 1st January, 1855.
4. Provisions in sects. 2 and 3 of the 17 & 18 Vict. c. 80, repealed, with reference to salaries of registrar-general and secretary.
5. Landward and burghal parts of parishes may be united.
6. All existing parochial registers before 1820 to be transmitted to registrar-general, and after 1820 till 1855 to parish registrar.
7. Seasonal record to be restored to the kirk session of the parish.
8. Provision as to fire-proof safes and offices.
9. Provision in sect. 25 of the 17 & 18 Vict. c. 80, as to annual publication of lists of registrars and assistants, repealed.
10. Register of births, deaths, and marriages of Scottish subjects occurring in foreign countries.
11. Provision in sect. 31 of the 17 & 18 Vict. c. 80, as to the signature of the register by the sheriff, repealed.
12. Mode of reckoning the period of "six months," referred to in sects. 32 and 33 of the 17 & 18 Vict. c. 80.
13. Additions and alterations to be inserted in the register of corrected entries.
14. Medical attendant to transmit certificate of death to the registrar within seven days.
15. Provisions in sects. 46 and 52 of the 17 & 18 Vict. c. 80, as to Schedule (C.), repealed.
16. Alteration of sect. 50 of the 17 & 18 Vict. c. 80, as to verification of registrar's accounts of registrations.
17. Provision as to payment of registrar's postages, &c.
18. As to remuneration of registrar.
19. Clerical errors in the duplicate registers may be corrected by the district examiners.
20. Commencement of act.

## CAP. LXXXVI.

An Act to make Provision respecting the Marriages of British Subjects in the Ionian Islands. [6th August, 1860.]

- Sect. 1. Marriages already contracted in the Ionian Islands to be valid.
2. Mode of contracting marriages.
3. Certificate of marriage to be signed in presence of two witnesses.
4. Entries of marriages to be reported to the registrar-general.
5. Copies to be kept by registrar-general, who shall allow searches to be made, and give certified copies.
6. Such copies to be evidence.
7. Lord High Commissioner may make regulations as to forms of license and certificate, &c.
8. As to marriages procured by false notices, declarations, &c.; penalty.
9. False notice, &c. punishable as perjury.
10. Evidence.
11. Act not to invalidate marriages otherwise lawful.
12. Interpretation of certain terms.

## CAP. LXXXVII.

An Act to remove Doubts as to the Authority of the Senior Member of the Council of the Governor-General of India in the Absence of the President. [15th August, 1860.]

Whereas doubts have arisen, where the Governor-General of India has nominated some member of his council to be president of the said council during his absence, under the provisions of the act of the session holden in the 3 & 4 Will. 4, c. 85, and the president so appointed is absent owing to indisposition or other cause, whether it is competent to the senior member of the council present at the council to preside and exercise the powers and authorities which during the absence of the Governor-General, where no such president is

appointed, such senior member is competent to exercise under the provisions of the act of the session holden in the 39 & 40 Geo. 3, c. 79, and it is expedient that such doubts should be removed: be it therefore declared and enacted &c. as follows:—

Sect. 1. Whenever a president of the council of the Governor-General of India, appointed by the said Governor-General under the provisions of the said act of the 3 & 4 Will. 4, is, from indisposition or other cause, absent from any meeting of the council, (the Governor-General also continuing absent therefrom), it is and shall be deemed to have been lawful for the senior member of the council who is present at such meeting to preside at the council, and to exercise the powers and authorities which during the absence of the Governor-General he is competent to exercise under the provisions of the said act of the 39 & 40 Geo. 3, where no such president is appointed.

#### CAP. LXXXVIII.

An Act to extend certain Provisions for Admiralty Jurisdiction in the Colonies to Her Majesty's Territories in India. [13th August, 1860.]

Sect. 1. *Provisions of the recited act to extend to India.*

2. *Provision for persons entitled to be tried by the Supreme Court of a Presidency.*

Whereas an act was passed in the session holden in the 12 & 13 Vict. c. 98, "to provide for the prosecution and trial in her Majesty's colonies of offences committed within the jurisdiction of the Admiralty," and by such act it was provided, that for the purposes thereof the word "colony" should mean any island, plantation, colony, dominion, fort, or factory of her Majesty, except the United Kingdom, and the islands of Man, Guernsey, Jersey, Alderney, and Sark, and the islands adjacent thereto respectively, and except also all such parts and places as were under the government of the East India Company: and whereas it is expedient that the provisions of the said act should extend to all parts and places heretofore under the government of the East India Company, in like manner as to other colonial and foreign possessions of her Majesty: be it therefore enacted &c. as follows:—

Sect. 1. So much of the said act as excepts the parts and places then under the government of the East India Company from the interpretation of the word "colony" shall be repealed, and, for the purposes of the said act, the word "colony" therein shall include and apply to every part and place heretofore under the government of the East India Company, or which may be under the government of her Majesty in India, and all the provisions of the said act shall be construed and take effect accordingly.

2. Provided always, that where any person within any place in India is charged with the commission of any offence in respect of which jurisdiction is given by the said act, or where any person charged with the commission of any such offence is brought for trial under the said act to any place in India, if at any time before his trial he make it appear to the court exercising criminal jurisdiction in the place where he is so charged or brought for trial, that in case the offence charged had been committed in such place he could have been tried only in the Supreme Court of one of the three Presidencies in India, and claim to be tried by such a Supreme Court accordingly, the said court exercising criminal jurisdiction as aforesaid shall certify the fact and claim to the governor of such place, or chief local authority thereof, and such governor or chief local authority thereupon shall order and cause the person charged to be sent in custody to such one of the Presidencies as such governor shall think fit, for trial before the Supreme Court of such Presidency, and the said Supreme Court, and all public officers and other persons in the Presidency, shall have the same jurisdiction and authorities, and proceed in the same manner in relation to the person charged with such offence, as if the same had been committed, or originally charged to have been committed, within the limits of the ordinary jurisdiction of such Supreme Court.

#### CAP. LXXXIX.

An Act to extend in certain Cases the Provisions of the Superannuation Act, 1859. [13th August, 1860.]

Sect. 1. Superannuation Act, 1859, to extend to cases of joint service in the office of Secretary of State for India and in the permanent civil service.

#### CAP. XC.

An Act to repeal the Duties on Game Certificates and Certificates to deal in Game, and to impose in lieu thereof Duties on Excise Licenses and Certificates for the like Purposes. [13th August, 1860.]

Sect. 1. *After the passing of this act the duties in respect of certificates to kill and deal in game, as contained in the 52 Geo. 3, c. 93, Schedule (L.), the 56 Geo. 3, c. 56, and the 1 & 2 Will. 4, c. 32, repealed.*

2. *In lieu of duties repealed, the duties herein named to be levied.*
3. *Duties granted to be excise duties under the Commissioners of Inland Revenue.*
4. *License to be taken out for taking or killing game in Great Britain. Penalty for neglect.*
5. *Exceptions and exemptions.*
6. *Nothing herein to alter the 11 & 12 Vict. cc. 29, 30, except that "game certificate" in the said acts, and also in the 1 & 2 Will. 4, c. 32, shall be read as "license to kill game."*
7. *Licenses may be taken out on behalf of assessed servants acting as gamekeepers for persons having right to kill game, or under deputations from lords of manors.*
8. *On change of gamekeeper, or revocation of deputation, license may be continued to successor.*
9. *Such licenses not available for acts done out of limits of the manor for which the parties are appointed gamekeepers.*
10. *Persons doing any act requiring a license to kill game to produce the same on demand, or declare their names, places of residence, &c. Penalty for refusal.*
11. *Licenses to be void if party be convicted of any offence under the 1 & 2 Will. 4, c. 32, or the 2 & 3 Will. 4, c. 68.*
12. *Commissioners to publish lists of persons licensed to kill game.*
13. *Provisions of the 1 & 2 Will. 4, c. 32, and the 2 & 3 Vict. c. 35, relating to licenses to deal in game, to be in force throughout the United Kingdom.*
14. *Persons licensed by justices to deal in game to pay for and obtain a license under this act.*
15. *Licenses to deal in game under this act to be granted only to those who have obtained licenses from the justices. List of persons licensed to be kept for inspection.*
16. *By whom licenses shall be granted, and form thereof. Duration and expiration of licenses.*
17. *The 5 & 6 Vict. c. 81, relating to game certificates in Ireland, to continue in force.*
18. *Licenses and certificates to be available throughout the United Kingdom.*
19. *The 7 & 8 Geo. 4, c. 49, repealed.*

Be it enacted &c. as follows:—

Sect. 1. From and after the passing of this act the respective duties of assessed taxes now payable under the several acts of Parliament in that behalf in respect of certificates to kill game in Great Britain, and to deal in game in England, and all the provisions, rules, and directions for assessing, charging, and collecting any of the said duties contained in Schedule (L.) of the act passed in the 52 Geo. 3, c. 93, and also the duties now payable in Ireland under the act passed in the 56 Geo. 3, c. 56, in respect of every certificate of having registered a deputation as a gamekeeper, and in respect of every certificate to authorise any person, not being a gamekeeper, to kill game in Ireland, and also the 18th and 20th sections of the act passed in the 1 & 2 Will. 4, c. 32, shall respectively cease and determine, and the same are hereby repealed, except as to any arrears of the said duties respectively, and as to any penalties incurred before the commencement of this act.

2. In lieu of the duties hereby repealed there shall be granted, charged, and paid for and upon the several licenses and certificates to take or kill game, and licenses to deal in game hereinafter mentioned, the respective duties or sums of money hereinafter expressed or denoted; that is to say—

For a license in Great Britain or a certificate in Ireland to be taken out by every person who shall use any

dog, gun, net, or other engine for the purpose of taking or killing any game whatever, or any woodcock, snipe, quail, or landrail, or any coney, or any deer, or shall take or kill by any means whatever, or shall assist in any manner in the taking or killing by any means whatever, of any game, or any woodcock, snipe, quail, or landrail, or any coney, or any deer—

If such license or certificate shall be taken out after the 6th April, and before the 1st November,

To expire on the 5th April in the following year .. .. . £3 0 0

To expire on the 31st October in the same year in which the license or certificate shall be taken out .. 2 0 0

If such license or certificate shall be taken out on or after the 1st November,

To expire on the 5th April following .. 2 0 0

Provided always, that any person having the right to kill game on any lands in England or Scotland shall be entitled to take out a license to authorise any servant, for whom he shall be chargeable to the duty of assessed taxes as a gamekeeper, to kill game upon the same lands, upon payment of the duty of .. .. . 2 0 0

And for every license to deal in game in England, Scotland, or Ireland, to be granted under this act .. .. . 2 0 0

3. The duties by this act granted shall be under the management of the Commissioners of Inland Revenue, and shall be deemed to be excise duties, and all the powers, provisions, clauses, regulations, and directions contained in any act relating to excise duties or to penalties under excise acts, and now or hereafter in force, shall respectively be of full force and effect with respect to the duties by this act granted, and to the penalties hereby imposed, so far as the same are or may be applicable, and shall be observed, applied, and enforced for and in the collecting, securing, and recovering of the said duties and penalties hereby granted and imposed respectively, and otherwise in relation thereto, so far as the same shall be consistent with and not superseded by the express provisions of this act, as fully and effectually as if the same had been herein repeated and specially enacted in this act with reference to the said last-mentioned duties and penalties respectively.

4. Every person, before he shall in Great Britain take, kill, or pursue, or aid or assist in any manner in the taking, killing, or pursuing, by any means whatever, or use any dog, gun, net, or other engine for the purpose of taking, killing, or pursuing any game, or any woodcock, snipe, quail, or landrail, or any coney, or any deer, shall take out a proper license to kill game under this act, and pay the duty hereby made payable thereon; and if any person shall do any such act as hereinbefore mentioned, in Great Britain, without having duly taken out and having in force such license as aforesaid, he shall forfeit the sum of 20l.

5. The following exceptions and exemptions from the duties and provisions of this act are hereby made and granted; that is to say—

#### *Exceptions.*

- (1). The taking of woodcocks and snipes with nets or springes in Great Britain.
- (2). The taking or destroying of conies in Great Britain by the proprietor of any warren or of any inclosed ground whatever, or by the tenant of lands, either by himself or by his direction or permission.
- (3). The pursuing and killing of hares respectively by coursing with greyhounds, or by hunting with beagles or other hounds.
- (4). The pursuing and killing of deer by hunting with hounds.
- (5). The taking and killing of deer in any inclosed lands by the owner or occupier of such lands, or by his direction or permission.

#### *Exemptions.*

- (1). Any of the royal family.
- (2). Any person appointed a gamekeeper on behalf of her Majesty by the Commissioners of her Majesty's Woods, Forests, and Land Revenues, under the au-

thority of any act of Parliament relating to the land revenues of the Crown.

- (3). Any person aiding or assisting in the taking or killing of any game, or any woodcock, snipe, quail, landrail, or coney, or any deer, in the company or presence and for the use of another person who shall have duly obtained, according to the directions of this act, and in his own right, a license to kill game, and who shall by virtue of such license then and there use his own dog, gun, net, or other engine for the taking or killing of such game, woodcock, snipe, quail, landrail, coney, or deer, and who shall not act therein by virtue of any deputation or appointment.
- (4). And, as regards the killing of hares only, all persons who, under the provisions of the two several acts, the 11 & 12 Vict. c. 29 and c. 30, respectively, are authorised to kill hares in England and Scotland respectively, without obtaining an annual game certificate.

6. Provided always, that nothing herein contained shall extend to repeal, alter, or affect any of the provisions of the said two several acts of the 11 & 12 Vict. c. 29 and c. 30, further than that the term "game certificate" in the said acts respectively used shall be construed to mean a license to kill game under the provisions of this act, and shall be so read accordingly; and that the term "game certificate," used in the act of the 1 & 2 Will. 4, c. 32, shall be construed and read in like manner; and that wherever in the said last-mentioned act the duty of 5s. 13s. 6d. on a game certificate is mentioned the duty of 3l. on a license to kill game shall be read in lieu.

7. Any person having the right to kill game on any lands in England or Scotland, and being charged or liable to be charged to the assessed tax on servants in respect of any gamekeeper, by whomsoever deputed or appointed, and whether deputed or appointed or not, and any person granting a deputation or appointment in Great Britain to the servant of any other person who shall be duly charged to the assessed tax on servants in respect of such servant, whether as gamekeeper or in any other capacity, with power and authority to take or kill any game, shall respectively be at liberty to take out a license to kill game on behalf of any such servant, on payment of the duty of 2l., for the year ending the 6th April, and such license shall exempt the servant named therein during his continuance in the same capacity and service, and on his quitting such service shall also exempt any servant who shall succeed him in the same service and capacity, or who shall succeed to the deputation of the same manor, or royalty, or lands, within the year for which the license is granted, during the remainder of such year; and no such servant on whose behalf a license shall have been duly obtained as aforesaid shall be required to obtain a license for himself, or be liable to any penalty by reason of not obtaining a license in his own name.

8. Every such license to kill game taken out on behalf of any such servant as aforesaid shall, upon the revocation of any such deputation or appointment, or on his quitting the service of the master by whom such license shall have been taken out, be from thenceforth of no further effect as to the person named therein as such servant, or so deputed or appointed as aforesaid; but if within the year for which such license was granted the said master, on the quitting of such servant, shall employ another servant as gamekeeper in his stead, or the person by whom such deputation or appointment was made shall, on the revocation thereof, make a new deputation or appointment to any person in his service, or in the service of the same master by whom such license shall have been taken out, and who shall have been charged or be chargeable to the said assessed tax on servants as aforesaid, the officer by whom such license was granted, or the proper officer appointed by the commissioners in that behalf, shall renew such license for the remainder of that year, on behalf of the fresh servant or the person so newly appointed, as the case may be, without payment of any further duty, by indorsing on such license the name and place of abode of the said last-mentioned servant, or the person to whom such last-mentioned deputation or appointment shall have been granted, and declaring the same to be a renewed license free of duty.

9. Provided always, that no such license taken out for or on behalf of any person, being such servant or acting under a deputation or appointment as aforesaid, shall be available for such person in any suit or prosecution where proof shall



be given of his doing or having done any act for which a license is required under this act on land on which his master had not a right to kill game.

10. If any person shall be discovered doing any act whatever in Great Britain, in respect whereof a license to kill game is required under this act, by any officer of Inland Revenue, or by any lord or gamekeeper of the manor, royalty, or lands wherein such person shall then be, or by any person having duly taken out a proper license to kill game under this act, or by the owner, landlord, lessee, or occupier of the land on which such person shall then be, it shall be lawful for such officer or other person aforesaid to demand and require from the person so acting the production of a license to kill game issued to him; and the person so acting is hereby required to produce such license to the person so demanding the production thereof, and to permit him to read the same, and (if he shall think fit) to take a copy thereof, or of any part thereof; or in case no such license shall be produced to the person demanding the same as aforesaid, then it shall be lawful for the person having made such demand to require the person so acting forthwith to declare to him his Christian and surname, and place of residence, and the place at which he shall have taken out such license; and if such person shall, after such demand made, wilfully refuse to produce and shew a license to kill game issued to him, or in default thereof as aforesaid to give to the person so demanding the same his Christian and surname, and place of residence, and the place at which he shall have taken out such license, or if he shall produce any false or fictitious license, or give any false or fictitious name or place, or if he shall refuse to permit any license which he may produce to be read, or a copy thereof, or of any part thereof, to be taken, he shall forfeit the sum of 20*l*.

11. If any person, having obtained a license to kill game under this act, shall be convicted of any offence under sect. 30 of the said act of the 1 & 2 Will. 4, c. 32, or under the act of the 2 & 3 Will. 4, c. 68, the said license shall thenceforth be null and void.

12. The Commissioners of Inland Revenue shall, when and as they shall see fit, cause lists of the names and residences of the several persons to or for whom licenses to kill game have been granted under this act to be inserted in such newspapers, or published in such other manner, as to them shall seem proper, distinguishing in such lists the persons acting under any deputation, appointment, or authority from others, and the manors, royalties, or lands for which deputations, appointments, or authorities have been granted, and also distinguishing the rate of duty paid for such licenses.

13. All the clauses and provisions of the two several acts passed respectively in the 1 & 2 Will. 4, c. 32, and the 2 & 3 Vict. c. 35, relating to the granting of licenses by justices of the peace to deal in game, and to the holding of special sessions by such justices in their respective divisions or districts for the purpose of granting such licenses, and also all the clauses, provisions, and penalties contained in the said acts, or either of them, relating to dealers in game, and to the selling of game, either by or to such dealers or others, shall, so far as the same are consistent with the express provisions of this act, and as the same are altered or amended by this act, extend to and be of full force and effect in and throughout the whole of the United Kingdom, and shall be observed, applied, and enforced as if the same, so altered or amended, and made consistent with the express provisions of this act, had been herein repeated and specially enacted: provided always, that no person shall be authorised to sell game to any licensed dealer unless he shall have taken out a *St.* license under this act.

14. Every person who shall have obtained any license to deal in game from the justices of the peace, under the provisions of the said two several acts in the preceding clause mentioned, shall annually, and during the continuance of such license, and before he shall be empowered to deal in game under such license, obtain a further license to deal in game under this act, on payment of the duty hereby charged thereon; and if any person, obtaining a license from the said justices as aforesaid, shall purchase or sell or otherwise deal in game before he shall obtain a license to deal in game under the provisions of this act, he shall forfeit the sum of 20*l*.

15. Provided always, that no license to deal in game shall be granted under the provisions of this act to any person, except upon the production of a license for the like purpose

duly granted to him by the justices of the peace as aforesaid, and then in force; and every officer appointed or authorised to grant licenses to deal in game under this act shall in each year make out a list, to be kept in his possession, containing the name and place of abode of every person to whom he shall have granted or issued a license to deal in game under this act, and such officer shall at all seasonable hours produce such list to any person making application to inspect the same, and shall be entitled to demand and receive for such inspection the sum of 1*s*.

16. All licenses and certificates to kill game and to deal in game respectively, under the provisions of this act, shall be in such form as the Commissioners of Inland Revenue shall from time to time provide in that behalf, and shall denote the amount of duty charged thereon respectively, and shall be granted, signed, and issued at the chief office of Inland Revenue in London, Edinburgh, and Dublin respectively, and by the several supervisors of excise in their respective districts, or by such other officers of Inland Revenue, and at such places, as the said commissioners shall think fit to employ and appoint respectively in that behalf; and every such license shall contain the proper Christian and surname and place of residence of the person to whom the same shall be granted, with any other particulars which the Commissioners of Inland Revenue may direct to be inserted therein, and shall be dated on the day when the same was actually issued, and shall have effect and be in force upon the day of the issuing thereof, and shall expire on the day therein mentioned for the termination thereof.

17. All the clauses, powers, provisions, and regulations, pains, and penalties, contained in or imposed by the act passed in the 5 & 6 Vict. c. 81, relating to certificates to kill game in Ireland, shall be of full force and effect, and shall be applied in Ireland to the certificates to be granted under this act, and the duties hereby imposed thereon, as fully and effectually as if the same were herein repeated, and specially enacted in reference to such last-mentioned certificates and duties.

18. Every license and certificate to kill game taken out respectively in Great Britain and Ireland under this act, by or on behalf of any person in his own right, and not as a gamekeeper or servant, shall be available for the killing of game in any part of the United Kingdom.

19. The act passed in the 7 & 8 Geo. 4, c. 49, intituled "An Act to exempt Persons who have procured Game Certificates in Great Britain from the Duty on Game Certificates in Ireland, and to authorise the Persons who have paid Duty on Game Certificates in Ireland to kill Game in Great Britain, upon paying the additional Duty only," shall be and the same is hereby repealed.

#### CAP. XCI.

An Act for removing Doubts respecting the Craven Scholarships in the University of Oxford, and for enabling the University to retain the Custody of certain Testamentary Documents.  
[13th August, 1860.]

Sect. 1. *Removing doubts as to scholarships founded by the will of Lord Craven.*

2. *Stat. 20 & 21 Vict. c. 77. University to retain the custody of certain testamentary documents, and transmit an index thereof to Court of Probate.*

Whereas it is expedient to remove certain doubts respecting the Craven scholarships in the University of Oxford, and to enable the university to retain the custody of certain testamentary documents: be it enacted &c. as follows:—

Sect. 1. Whereas doubts have arisen whether the scholarships founded by the will of John Lord Craven, and commonly called "The Craven Scholarships," are included within the words "university or college emolument," in the act of the 17 & 18 Vict.: be it enacted, that the said Craven scholarships shall be deemed to be university emoluments within the meaning of the said act, and that all statutes or regulations which heretofore, and since the passing of the said act, have been made by the university, and approved by her Majesty in Council, conformably to the conditions and provisions of the said act, in relation to the said Craven scholarships, shall have the same force and effect as if the said scholarships had been expressly named and included in the said act as university emoluments; and in elections to

the said scholarships no person shall be entitled to preference by reason of his being of the same or kindred of the founder: provided that nothing herein, or in the said act, or in such statutes or regulations contained shall preclude the High Court of Chancery from augmenting from time to time the number of scholars, whenever the increased income of the foundation shall permit.

2. And whereas, by the 20 & 21 Vict. c. 77, it was enacted that "the acting judge and registrar of every court, and other person now having jurisdiction to grant probate or administration, and every person having the custody of the documents and papers of or belonging to such court or person, shall, upon receiving a requisition for that purpose, under the seal of the Court of Probate, from a registrar, and at the time and in the manner mentioned in such requisition, transmit to the Court of Probate, or to such other place as in such requisition shall be specified, all records, wills, grants, probates, letters of administration, administration bonds, notes of administration, court books, calendars, deeds, processes, acts, proceedings, writs, documents, and every other instrument relating exclusively or principally to matters or causes testamentary, to be deposited and arranged in the registry of each district, or in the principal registry, as the case may require, so as to be easy of reference, under the control and direction of the court:" and whereas, in the case of the court of the chancellor of the University of Oxford, it has been found inconvenient to separate the testamentary records, instruments, and papers of or belonging to the said court from the other records, instruments, and papers thereof: be it further enacted, that the vice-chancellor of the said university shall, as soon as conveniently may be, cause to be made an index to such of the records and other instruments and papers whatsoever of or belonging to the said court as relate exclusively or principally to matters or causes testamentary, which shall be as accurate as the nature of the said records and other instruments and papers will permit, and shall transmit a copy of such index to the principal registrar of her Majesty's Court of Probate, and such transmission thereof shall be a sufficient compliance with the above-recited enactment of the said act, so far as regards the court of the chancellor of the said university; and it shall thereafter be lawful for the said university, notwithstanding the said act, to retain the custody of all the records, documents, and papers to which such index shall relate: provided that all the said records, instruments, and papers shall at all convenient times be liable to be inspected, and to have extracts or copies taken therefrom, by the authority of the principal registrar of her Majesty's Court of Probate, or of the district registrar of the same court at Oxford, on payment of the same fees as would have been payable if such records, instruments, and papers had been deposited in the principal registry, or in the registry of the Oxford district, as the case might have required, such fees to be paid to the same person or persons as would in that event have been entitled to receive the same; and that no officer of the said university, or of the said court of the chancellor thereof, shall be entitled to receive any fee from any person inspecting the said records, or taking extracts or copies therefrom by the authority aforesaid.

## CAP. XCII.

An Act to amend the Law relative to the Scottish Herring Fisheries. [19th August, 1860.]

- Sect. 1. Short title.
2. Interpretation of terms.
3. Commissioners may appoint superintendents of the fishery.
4. Commissioners may fix periods during which the herring fishing may not be carried on.
5. Commissioners may make regulations for the management and protection of the herring fisheries, and preservation of order.
6. Commissioners may prohibit the use of trawl, beam, and drag nets.
7. Commissioners may rescind regulations, &c.
8. Regulations to be approved by the Lords of the Treasury, and to be published.
9. Penalty under sect. 6 of the 14 & 15 Vict. c. 26, declared.

10. Nets and fishing implements, when found, to be delivered to the commissioners or their secretary, and, unless liable to forfeiture, to be restored to the owners, or, if not claimed, to be sold.
11. Fishing boats and implements of fishing to be marked and numbered, and if not marked and numbered, may be seized and detained.
12. Sect. 46 of the 48 Geo. 3, c. 110, repealed, and names of owners to be painted on boats. If names not painted on boats, they shall be detained.
13. Nets other than drift nets to be laid aside during fishery, and if not laid aside, may be seized and forfeited.
14. Mode of enforcing fines, forfeitures, and penalties.
15. Judges who may try offences, and mode of enforcement of orders and sentences.
16. Jurisdiction where offence committed on the coasts.
17. Petitions, orders, and sentences may be in a summary form, as in Schedule (B.)
18. No record of evidence necessary, and proceedings not to be quashed or reviewed.
19. Appeal.
20. Boats, nets, &c. forfeited may be sold or destroyed. As to proceeds in case of sale.
21. Judge may grant warrant of imprisonment, failing payment of or security for penalty and expenses.
22. Persons found committing offences may be apprehended.
23. Her Majesty may appoint five additional commissioners.
24. Limitation of actions.
25. Regulations to be laid before Parliament.
26. Act not to apply to Ireland or the Isle of Man.

## CAP. XCIII.

An Act to amend and further extend the Acts for the Commutation of Tithes in England and Wales.

[19th August, 1860.]

- Sect. 1. *Corn-rents under local acts may be converted into tithe rent-charge.*
2. *County or towns from whose returns average to be calculated.*
3. *How average to be calculated.*
4. *Commissioners to apportion rent-charge.*
5. *Power of appeal to a court of law.*
6. *Comptroller of corn returns to furnish information.*
7. *Commissioners to have the same powers as in tithe commutations. As to expenses of awards, &c.*
8. *Copies of award to be deposited &c.*
9. *As to recovery of rent-charges awarded in lieu of corn-rents.*
10. *Where consents not given, draft of proposed altered apportionment to be deposited for inspection. In case of objection, commissioners to appoint a time for hearing the same.*
11. *Rent-charge may be re-apportioned and redistributed on the same or on other lands.*
12. *Where fences removed, rent-charge may be apportioned on land tithe-free, jointly with other land.*
13. *Land not to be charged to a different owner than before without consent.*
14. *Consent of landowner not required where his lands are not charged.*
15. *Power to commissioners to alter apportionment where successive alterations have made it inconvenient or difficult, but not to alter the amounts, &c.*
16. *Power to commissioners to alter apportionment where boundaries of parishes have been altered.*
17. *Powers for altering apportionments or awards.*
18. *Tithes commuted for a sum or rate per head may be converted into a rent-charge.*
19. *Grass rent-charge may be apportioned on gated or stinted pastures.*
20. *Rent-charge on commons may be commuted for a part of the land, or redeemed.*
21. *If rent-charge is commuted for land, commissioners to set out the land, and to vest the same in the owner.*
22. *Commissioners to set out land to be sold for purposes of redemption.*

23. *Conveyance of land sold to be executed by commissioners.*
24. *Where rate per head is in arrear, the same may be recovered by distress.*
25. *Upon inclosure, rate per head may be converted into rent-charge.*
26. *Power to commissioners to order maps to be detached from instruments of apportionments.*
27. *Provision for restoration of damaged instrument of apportionment.*
28. *Justices may order an instrument of apportionment to be restored to proper custody.*
29. *Expenses of recovering rent-charge.*
30. *Notice of intention to distrain may be sent by post.*
31. *Commissioners may order a rent-charge not exceeding 15*l.* to be redeemed before apportionment.*
32. *Where land divided, commissioners may order rent-charge to be redeemed after apportionment.*
33. *Provision in cases where rent-charge has been charged on lands which, in consequence of error in boundary, are not within the parish where aggregate charge is awarded.*
34. *Provision for charging rent-charge where land made chargeable for more than one parish.*
35. *Commissioners shall give notice of their intention to order compulsory redemption.*
36. *If person refuse to receive redemption money, to be dealt with as if under disability.*
37. *Trustees may be appointed to receive sums not exceeding 200*l.* payable to corporation.*
38. *Provisions of recited acts applicable to redemptions under this act.*
39. *Expenses and redemption money, how to be raised.*
40. *Informal arrangements may be confirmed.*
41. *Copyhold and other lands may be exchanged for glebe.*
42. *Formation of district within which extraordinary charge in respect of hop-grounds and market-gardens shall be payable.*
43. *Power to enter on land.*
44. *Recited acts and this act to be as one.*

Whereas an act was passed in the session of Parliament held in the 6 & 7 Will. 4, [c. 71], intituled "An Act for the Commutation of Tithes in England and Wales," and the said act has been amended, and the provisions thereof have been extended, by acts passed in the sessions of Parliament held in the first year, the first and second years, the second and third years, the third year, the fifth and sixth years, the ninth and tenth years, and the tenth and eleventh years of the reign of her present Majesty: and whereas it is expedient that the said acts should be amended, and that the provisions thereof should be further extended in manner hereinafter mentioned: be it enacted &c. as follows:—

SECT. 1. Where corn-rents are payable by virtue of any local act of Parliament, in commutation of the whole or part of the tithes of any parish, and such corn-rents shall be subject to variation at certain periods under the provisions of the same act, the commissioners, upon the application in writing of the owners of lands liable to the payment of the major part in value of such corn-rents, or of the persons to whom a major part in value of such rents are payable, at any time at which the said corn-rents might be subjected to variation under such local act, or at any other time, upon the joint application in writing of the owners of lands liable to the payment of the major part in value of such corn-rents, and of the persons to whom a major part in value of such rents are payable, may, by an award under their hands and seal, convert the same into a rent-charge, to be thenceforth and for ever thereafter payable in like manner, and subject to the like incidents, as rent-charges awarded under the said recited acts are payable and subject to: provided always, that nothing in this act contained shall be construed to render any such rent-charge liable to parochial or other rates or taxes from which the corn-rents in respect of which such rent-charge shall have been awarded were free and exempt.

2. Wherever the local act provides that the average prices upon which any corn-rents shall be varied shall be taken from any county or from towns from which corn returns are made, the commissioners shall calculate the rent-charge to be awarded by them in lieu of such corn-rents upon the re-

turns for such county or such towns; and where no corn returns are made from the towns so named, the commissioners shall select two towns in the same or any adjoining county from which there are returns, and give notice thereof in such manner as to them shall seem fit, and shall appoint a time (being not less than twenty-one days from the date of the notice) within which objections to such selection may be signified in writing to the commissioners by any person interested; and if there be any such objections, the commissioners shall consider the same, and shall either confirm the selection, or select some other towns, as they may think fit.

3. The commissioners shall calculate the rent-charge to be awarded in lieu of any such corn-rents upon the average prices for the number of years next preceding the date of the application to them, which shall be provided by such local act as the basis of variation, having due regard to the average prices upon which such corn-rents were ascertained; and such calculation, where practicable, shall be made with reference to the particular grain mentioned in the local act under which such corn-rents are payable; or, if there shall be no returns of such grain, upon the average prices of wheat, barley, and oats.

4. The commissioners shall apportion the rent-charge to be awarded by them in lieu of corn-rents upon and among the lands heretofore subject to such corn-rents, either by a general schedule or a schedule in detail of the same lands, to be annexed to and form part of their award, and with or without a map of the same lands, or any part thereof, but the commissioners shall not require a map unless the same shall in their opinion be rendered necessary for the identification of any such lands; and the commissioners shall deposit a draft of such award for inspection in the same manner as by the said recited acts is required in reference to an instrument of apportionment, and shall cause notice of such deposit to be given in such manner as to them shall seem fit, and shall by such notice specify the time (being not less than twenty-one days) within which objections in writing to such proposed award may be signified to the commissioners; and in case any notice of objection shall be given within the time limited as aforesaid, the commissioners shall appoint a time and place for hearing such objections, and shall by themselves or by an assistant commissioner take such objections into their consideration; and if there be no notice of objections, or when the said commissioners or assistant commissioner shall have heard and determined all such objections, the commissioners shall confirm such award, with or without amendments, as they shall see fit, and such award shall thenceforth be binding and conclusive on all persons whomsoever, subject to the provision hereinafter contained, and shall be conclusive evidence on every matter in the said award set forth and contained.

5. Any person dissatisfied with the said award, and who shall be desirous of appealing against the same, shall have the same power of appeal as is given by the said first-recited act in the case of a decision given under the 45th section of such act, notwithstanding that the yearly payment in dispute shall be less than 20*l.*; and the court is hereby empowered to amend such award, or to remit the same to the commissioners to be amended by them, in such manner as the said court shall direct, and the commissioners shall thereupon amend the same in conformity to such direction, and the award so amended shall be binding and conclusive on all persons whomsoever.

6. The commissioners shall have access to the books of the comptroller of corn returns for the time being, and shall be furnished by him with such information as they may require for the purposes of any award of rent-charge in lieu of corn-rents.

7. In making any such award, and any inquiries incident thereto, the commissioners shall have the same powers as to the attendance and examination of witnesses, the production of documents, and all other matters, as are given by the said recited acts in matters relating to the commutation of tithes; and all expenses of or incident to any such award, or any part thereof, shall be borne and paid by and amongst the owners of lands heretofore liable to such corn-rents, and the persons to whom the same were payable respectively, in such proportion and manner as the commissioners shall direct, and be recoverable in like manner as expenses under the said recited acts are recoverable.

8. The commissioners shall cause to be made two copies

of every such award of rent-charge in lieu of corn-rents, which copies shall be sealed by them, and be deposited in like manner, and subject to all the like incidents, as provided by the said recited acts in reference to the sealed copies of an instrument of apportionment.

9. The payment of any rent-charge awarded in lieu of corn-rents which shall be in arrear may be enforced by the same ways and means as payment of rent-charge in arrear may be enforced under the provisions of the said recited acts, or may be enforced, at the option of the person to whom the same rent-charge is payable, by the same ways and means as are provided by the local act for the recovery of the corn-rents in lieu of which such rent-charge shall have been awarded.

10. In any case of altered apportionment, in which the consent of the whole of the landowners interested in such alteration shall not be signified thereto, the commissioners shall, in lieu of the service of notice required by the said acts, cause a draft of the proposed altered apportionment to be deposited for inspection, in the same manner as by the said first-recited act is required in reference to an instrument of apportionment, and shall cause notice to be given of such deposit in such manner as to them shall seem fit, and shall by such notice specify the time (being not less than twenty-one days) within which objections in writing to such proposed altered apportionment may be signified to the commissioners; and in case any notice of objection shall be given within the time limited as aforesaid, the commissioners shall appoint a time and place for hearing such objection, and shall, by themselves or by an assistant commissioner, take such objection into their consideration; and if there be no notice of objection, or when the said commissioners or assistant commissioner shall have heard and determined every such objection, the commissioners shall confirm such altered apportionment, with or without amendments, as they shall see fit.

11. With the consent of the owner or owners of any lands charged with rent-charge under any instrument of apportionment, whether payable to one or more owners of rent-charge, and without regard to the mode in which the same rent-charge is apportioned by the said instrument, the commissioners may by an altered apportionment re-apportion and re-distribute the same rent-charge over and amongst the said lands, or any part thereof, and to the exclusion of any of such lands; but no rent-charge shall be charged upon any land to the exclusion of other land of the same owner, unless the land so charged with rent-charge is held for an estate in fee-simple or fee-tail in possession, or unless the same and the land so excluded are settled to the same uses.

12. Where, through the removal or alteration of fences between land charged with rent-charge under any instrument of apportionment and land upon which no rent-charge is now charged or which is tithe-free, it becomes impossible or difficult to distinguish the limits of the land so charged with rent-charge, the commissioners may, with the consent of the owner of the said lands, include the whole of such lands in any instrument of altered apportionment to be made by the said commissioners, and may apportion the rent-charge as well on the said land not heretofore charged as on the said land heretofore liable to the payment thereof, or on any part thereof, provided that the whole of the lands on which such rent-charge is apportioned are held for an estate in fee-simple or fee-tail in possession, or are settled to the same uses.

13. No land shall be charged with rent-charge payable to a different owner than the rent-charge previously charged thereon was payable to, without the consent in writing of the owner of the rent-charge so proposed to be charged, except in cases of altered apportionment after inclosure.

14. It shall not be necessary to obtain the consent of any landowner to an altered apportionment whose lands are not charged with rent-charge by such altered apportionment.

15. Whenever it shall appear to the commissioners that any instrument of apportionment shall have been altered by successive instruments of altered apportionment, so as in the judgment of the commissioners to render the collection of the rent-charge upon the lands included in such apportionment and altered apportionments unreasonably inconvenient or difficult, the commissioners may, upon the application of the person or persons entitled to such rent-charge, or any part thereof, and without notice to or the consent of any owner of such lands, make a further instrument of altered apportion-

ment as regards the whole of the said lands, or such portions thereof as to them shall seem fit, but without making any alteration in the amount charged on the lands of any particular owner; and the altered apportionment so made by the commissioners shall be taken to be an amendment of and in substitution for so much of the said original apportionment and altered apportionments as relates to the lands included in the said lastly made altered apportionment.

16. Whenever any new boundaries of parishes shall have been or shall be set out upon any inclosure or otherwise, and it shall appear to the commissioners that the apportionment of the rent-charge in such parishes is thereby rendered inconvenient, the commissioners may make and confirm an altered instrument of apportionment adapted to the altered distribution of the lands in such parishes or any of them, and to the new boundaries which shall have been so set out, or otherwise the commissioners may, by an order under their hands and seal, declare the lands which shall be affected by such alteration of boundaries, either with or without any other lands comprised in such inclosure, and whether such lands are situate in one or more parishes, to be a separate district for the purposes hereinafter mentioned, and may make and confirm an altered instrument of apportionment adapted to the altered distribution of such lands, with reference to the owners both of the lands and rent-charge in such district, and the commissioners may determine that the amount of rent-charge payable to each of the owners of rent-charge in such district shall be fixed and apportioned upon such particular lands as to them shall seem convenient, so that no lands are charged with more than their due proportion of rent-charge; and every such determination shall be binding and conclusive, and such altered apportionment, when confirmed, shall be annexed to the original apportionment for that parish from which the greatest amount of rent-charge is payable under the altered apportionment, and counterparts thereof shall be annexed to the original apportionment for each of the other parishes comprised in such district, and copies thereof shall be deposited in respect of each several parish comprised in the district, in conformity with the provisions of the said recited acts.

17. All the powers given by the said recited acts or by this act in relation to the alteration of instruments of apportionment shall extend to all altered apportionments, and to awards of rent-charge in lieu of corn-rents, and to awards under local acts by which any rent-charge is awarded in lieu of tithes, glebe, or commonable or other rights or easements.

18. In any case in which tithes have been commuted for a sum or rate per head, to be paid for each head of cattle or stock turned on land subject to common rights, or held or enjoyed in common, during the whole of the year, the commissioners may, upon the application in writing of any person entitled to receive such sum or rate per head, or of any person who may be liable to pay the same or any part thereof, by a supplemental award and apportionment, by way of supplement to the apportionment under which such rate per head shall be now payable, convert the same into a gross rent-charge, to be thereafter payable out of such land.

19. Where a gross rent-charge has been made payable in respect of the tithes of any gated or stinted pasture, and such gates or stints are rated to the relief of the poor, the commissioners may, by the instrument of apportionment to be made of such rent-charge, or by a supplemental award and apportionment, where an apportionment shall have been already made, upon the application in writing of the person entitled to such rent-charge, or of any owner of a gate or stint, apportion such gross rent-charge pro rata upon the gates or stints; and after such apportionment, or supplemental award and apportionment, the owner of such rent-charge shall have the same powers for the recovery of any arrears thereof, by distress on the goods and chattels of the person rated to the relief of the poor in respect of the gates or stints the rent-charge upon which is in arrear, as are given by the said recited acts for the recovery of rent-charge in arrear; and such powers of distress may be exercised upon the goods and chattels of such person, whether found upon the said pasture or elsewhere.

20. In every other case in which a gross rent-charge is charged upon any land subject to common rights, or held or enjoyed in common during the whole of the year, the commissioners shall, upon the application in writing of the person entitled to such rent-charge, or of any person liable to pay

the same or any part thereof, convene a meeting of the owners of such land and persons liable to pay such rent-charge, of which twenty-one days' notice shall be given, in such manner as to the commissioners shall seem fit; and the majority in value of the persons attending such meeting may determine whether such rent-charge shall be commuted for an equivalent part of the land on which it is chargeable, or be redeemed for a sum equal to twenty-five times the amount of such rent-charge, to be paid by a time to be limited by the commissioners; and may further determine, if the rent-charge is to be redeemed, whether the redemption money shall be raised by rate on the persons liable to such rent-charge, or by sale of a portion of such land: provided always, that if no determination be come to at such meeting, the commissioners may proceed to commute the rent-charge for land as hereinafter provided.

21. If the rent-charge is to be commuted for land, the commissioners shall define and set out the land to be so given, and shall vest the same in the owner of the rent-charge, by an award to be made by them, in like manner as awards of exchange of glebe for other land are made under the said recited acts, and subject to all the like incidents.

22. If the rent-charge is to be redeemed for a sum to be raised by the sale of a portion of the land liable to such rent-charge, the commissioners may define and set out such part of the land as may be sufficient in value to meet the redemption money and the expenses of sale, and may sell and dispose of the same by public auction or private contract, as they may think expedient.

23. Upon every such sale the commissioners shall sign and deliver to each purchaser a receipt for his purchase money, which shall be a sufficient discharge for the same; and upon receipt of the whole purchase money for any of the lands which shall be sold as aforesaid, the commissioners shall convey such lands, and the fee-simple and inheritance thereof in possession, by conveyance under their hands and seal, to such uses and in such manner as such purchasers shall direct; and after such conveyance the premises conveyed shall be freehold of inheritance, and shall be held to the uses and in manner expressed in such conveyance; and any such conveyance may be to the effect set forth in the schedule to this act, and shall be evidence of the regularity of the sale in pursuance of which such conveyance shall be made.

24. Wherever a sum or rate per head shall be in arrear, the arrears shall be recoverable by distress and impounding of any cattle, stock, goods, or chattels belonging to the person in respect of whose cattle or stock such sum or rate per head is in arrear, wherever the same may be found.

25. Where any lands, in respect to the cattle or stock upon which any sum or rate per head shall be payable, shall be inclosed, divided, allotted, or exchanged, under the powers of any general or local act of inclosure or otherwise, the commissioners may, by the altered apportionment which may be made by them, adapted to the altered distribution of the said lands, charge a rent-charge, equivalent to the amount of the sum or rate per head which shall have been previously payable, upon the lands which shall have been allotted under the said inclosure in lieu of the rights in respect of which the said sum or rate per head was made payable, which rent-charge shall be thereafter payable out of the same lands, in such manner and proportion as the said altered apportionment shall direct.

26. Where, by reason of the size of the map annexed to any instrument of apportionment, or other circumstances, the commissioners shall be of opinion that it is expedient that such map should be detached and held separate from the said instrument, the commissioners may, by an order under their hands, direct that the said map shall be so detached, and they may make the like order upon the application of the incumbent and churchwardens of any parish, or either of them, or the registrar of any diocese, in reference to the sealed copy of any instrument of apportionment belonging to any such parish, or held in the custody of such registrar, and thereupon every map so detached shall have the same force and effect and be referred to as if the same were annexed to the said apportionment, or the sealed copies thereof.

27. In any case in which an instrument of apportionment or any part thereof shall have been damaged or defaced, the commissioners may, by an order under their hands, require

the sealed copy thereof which shall be deposited in the parish or registry of the diocese to be delivered up to them, for a time to be limited by such order, for the purpose of enabling them to restore such portions of the said instrument as shall have been so damaged or defaced, or of making an entire copy of the said instrument, which instrument so restored, or entire copy so made by them, being certified under their hands and seal, shall be of the same force and have the same effect as the said confirmed instrument of apportionment.

28. Whenever any person, other than the persons legally entitled to the possession of the same, shall have possession of the sealed copy of any confirmed instrument of apportionment, it shall be lawful for any two justices of the peace for the county or other jurisdiction within which the lands mentioned in the said apportionment are situate, upon the application of any person interested in the lands or rent-charge, and upon fourteen days' notice in writing of such application to the person or persons in whose custody such copy shall be at the time of such application, to hear and determine such application; and upon hearing such application the said justices may order such copy to be removed from the custody of the person holding the same, and to be deposited in such other custody as the said justices, having reference to the security and due preservation of such copy, and to the convenience of the parties interested therein, may think fit, and may impose a fine, not exceeding 20s., for each day that any such copy shall be retained, contrary to the terms of such order, upon the person so retaining it, and may make such further order concerning the notice to be given of such removal and deposit, and concerning the costs of such application and the said fine, or of any opposition thereto, as they may think reasonable.

29. If a rent-charge shall at any time be in arrear and unpaid, and in order to enforce payment thereof it shall become necessary for the person entitled to the same to give notice of his intention to distrain upon the lands liable to the payment thereof for the arrears of the said rent-charge, according to the provisions of the said recited acts, the owner of the rent-charge shall in all cases be entitled to 2s. 6d. for and in respect of each notice which shall have been so issued, and such sum shall be deemed and taken to be part of the rent-charge which is in arrear and unpaid, and shall be recoverable accordingly, in like manner as the said arrears of rent-charge are recoverable.

30. Notice of intention to distrain may be given in the manner provided by the said recited acts, or by sending it by the post in a registered letter to the office or usual place of abode of the person to whom the same is addressed.

31. Where, under any agreement or award which has been or hereafter shall be confirmed by the commissioners, the amount of the rent-charge agreed or awarded to be paid instead of the tithes of any parish, and which shall not have been apportioned, shall not exceed the sum of 15*l.*, the commissioners may, if they shall see fit, (and without the consent of the owner or owners of the lands chargeable with the said rent-charge, or of the person or persons for the time being entitled to the receipt thereof), by an order under their hands and seal, direct that such rent-charge shall be redeemed by the payment by the owners of the lands chargeable therewith, within such time as the commissioners shall by such order direct and appoint, of a sum equal to twenty-five times the amount of such rent-charge.

32. Whenever lands charged with rent-charge under any instrument of apportionment or altered apportionment shall be divided, for building or other purposes, into numerous plots, and it shall appear to the commissioners that no further apportionment of the said rent-charge can conveniently be made, the commissioners may, if they shall see fit, upon the application of any one owner of the said lands, and without the consent of any other owner, or of the person for the time being entitled to the receipt of the said rent-charge, and without limitation as to the amount thereof, by an order under their hands and seal, direct that such rent-charge shall be redeemed by the payment by the owners of the lands chargeable therewith, within such time as the commissioners shall by such order direct and appoint, of a sum equal to twenty-five times the amount of such rent-charge.

33. Whenever it shall be shewn, to the satisfaction of the commissioners, that, by reason of error as to boundary or otherwise, any rent-charge or portion of rent-charge shall have been charged, by any confirmed instrument of appor-

tioument, on lands not within the parish in respect of the tithes of which the aggregate rent-charge, the apportionment of which shall have been so confirmed, was agreed or awarded to be paid, the commissioners may, if they shall see fit, upon the application of the owner or owners of the said lands, and without the consent of any owner of land in the said parish, or of the person for the time being entitled to the receipt of the said rent-charge, by an order under their hands and seal, direct that such rent-charge or portion of rent-charge so charged on lands not within the parish shall be redeemed by the payment by the owners of lands charged with the residue of the said rent-charge by the said apportionment, or any of them, within such time as the said commissioners shall by such order direct and appoint, of a sum equal to twenty-five times the amount of such rent-charge; and if there shall be any question touching the situation or boundary of the lands which shall be alleged to have been erroneously included in the said apportionment, the commissioners shall have the same powers for hearing and determining the same as are given by the said first-recited act for hearing and determining any difference whereby the making of an award of rent-charge in lieu of tithes is hindered.

34. Where any land has been made chargeable with rent-charges in lieu of tithes for more than one parish, the commissioners, on being satisfied thereof, may determine in respect of which parish the rent-charge ought to have been charged, and may, by order, direct such rent-charge to be paid in respect of such parish only.

35. Before the commissioners shall order the compulsory redemption of any rent-charge, they shall cause notice to be given of their intention in such manner as to them shall seem fit, and shall by such notice specify the time (being not less than twenty-one days) within which objections in writing to such proposed order may be signified to them; and in case any notice of objections shall be given within the time limited as aforesaid, the commissioners shall, by themselves or an assistant commissioner, take such objections into their consideration.

36. If the person absolutely entitled to the redemption money refuses to receive the same, or if the rent-charge be subject to incumbrances, and the commissioners shall consider that the incumbrancers should be protected, such redemption money shall be dealt with as is provided in cases where the owner of the rent-charge is only entitled thereto for a limited estate.

37. Where the money to be paid for the redemption of any rent-charge does not exceed 200*l.*, and the person for the time being entitled to such rent-charge shall be a corporation not authorised to make an absolute sale of such rent-charge otherwise than under the provisions of the said recited acts, the redemption money may be paid into the hands of trustees to be nominated by the commissioners, by order under their hands and seal, and the money, when so paid, shall be applied by the trustees, with the consent of the commissioners, to the purposes to which money to be paid for the redemption of any rent-charge into the Bank of England in the name of the Accountant-General is by the said recited acts directed to be applied; and upon every vacancy in the office of such trustees some other person shall be appointed by the said commissioners in like manner.

38. The provisions of the said recited acts respecting the redemption of rent-charge (except as otherwise by this act is provided) shall be applicable to all cases of redemption of rent-charge effected under this act.

39. For the purposes of making any altered apportionment, supplemental award and apportionment, or award of rent-charge in lieu of corn-rents, or for the purpose of collecting any redemption money which may have been fixed as hereinbefore provided, and not paid by the time in that behalf limited, and of assessing the same redemption money, and all expenses of or incidental to any such altered apportionment, supplemental award and apportionment, or award, or of any such redemption, (including, if the commissioners shall see fit, the expense of the assistant commissioner's attendance at any meetings which may be necessary in the matter of any such altered apportionment, supplemental award and apportionment, or award, or of any such redemption), between the owners of the lands liable to the rent-charge to be re-apportioned or redeemed, or to the rent-charge awarded in lieu of corn-rents, or persons to whom the said corn-rents were payable, the commissioners or an assistant

commissioner may employ such land surveyors and tithe valuers or other persons as to them shall seem fit, and all the powers and provisions of the said recited acts concerning the valuers appointed for the purposes of an original apportionment of rent-charge, and concerning the assessment and recovery of the expenses of an original award of rent-charge or apportionment, so far as in the discretion of the commissioners shall seem fit, shall be and the same are hereby made applicable to the land surveyors, tithe valuers, or other persons so employed, and to the assessment, collection, and recovery of any such redemption money, and of all expenses incidental to any such altered apportionment, supplemental award and apportionment, or award, or to any such redemption; but the commissioners shall, before they proceed to collect any such redemption money or expenses, cause a schedule, shewing the total amount thereof, and the share thereof to be borne by each person interested, to be deposited for inspection, in the same manner as by the said recited acts is required in reference to an instrument of apportionment, and shall cause notice to be given of such deposit in such manner as to them shall seem fit, and shall by such notice specify the time (being not less than twenty-one days) within which objections in writing to such proposed apportionment of the redemption money and expenses may be signified to the commissioners; and in case any notice of objections shall be given within the time limited as aforesaid, the commissioners shall, by themselves or by an assistant commissioner, take such objections into their consideration; and if there be no such objections, or when the said commissioners or assistant commissioner shall have heard and determined all such objections, the commissioners shall proceed to collect the said redemption money and expenses as hereinbefore provided.

40. Whenever land or money payments, or both, have been given to the titheowners of any parish, and are now holden by them, instead of tithes, or glebe, or commonable or other rights or easements, and it shall appear that such land or money payments, or both, shall have been so given by virtue of any act of Parliament, the provisions of which have not been fully carried out, or by virtue of any arrangement which is not of legal validity, the commissioners may, if it shall appear just and expedient, having regard to all the circumstances of or incidental to the case, by an award confirm the titheowner in possession of the said land or money, or both, and may confirm and render valid any such arrangement, and may also award a rent-charge, subject to the provisions of the said recited acts, when and in such cases as to them shall seem fit; and, subject to such confirmation and award, the commissioners may extinguish the right of the titheowners to the perception of the said tithes, or their title to the said glebe rights or easements, or to the receipt of any rent-charge instead thereof, other than the rent-charge, if any, awarded over and above the lands or money, or both, so confirmed to them.

41. So much of the said recited acts as provides that the land given to any spiritual person, in exchange for glebe of any benefice, shall be free from incumbrances, and shall not be of copyhold or customary tenure, subject to arbitrary fine or the render of heriots, shall be repealed, and all conditions, charges, incumbrances, and every other incident affecting the land so given, shall upon such an exchange be transferred to the said glebe taken in exchange for the same land; and the glebe land taken in exchange for any copyhold or customary land shall be held of the lord of the same manor, under the same rent, custom, and services as the said copyhold or customary land previously was or ought to have been held, and without any new admittance in respect thereof, but the consent of the lord of the same manor shall be necessary to any exchange in which any land of copyhold or customary tenure shall be included.

42. Whenever the commissioners are requested, in the manner provided by the said recited acts, to charge an additional rent-charge, by way of extraordinary charge, upon any hop-grounds or market-gardens, newly cultivated as such, beyond the limits of any district for which an extraordinary charge for hop-grounds or market-gardens respectively shall have been already distinguished, the commissioners may declare the lands in the parish in which such newly-cultivated hop-grounds or market-gardens are situate a district within which the extraordinary charge to be then fixed by them shall be thereafter payable.



43. For the purpose of ascertaining the extent of the land cultivated as hop-grounds or market-gardens, the person to whom any extraordinary charge upon such land is or would be payable, his agents or servants, at all reasonable times, may enter upon the said land, and make an admeasurement and plan of the same, without being subject to any action or molestation for so doing.

44. This act shall be taken and construed as part of the said first-recited act, as amended and extended by the several acts passed for the amendment thereof, and by this act.

#### THE SCHEDULE TO WHICH THIS ACT REFERS.

##### *Form of Conveyance by Commissioners.*

In the Matter of —.

We, the Tithe Commissioners for England and Wales, by virtue of an act of Parliament passed in the — year of the reign of Queen Victoria, intituled [*here insert the title of this act*], and in consideration of the sum of £— paid into our hands by —, being the purchase money of the hereditaments hereinafter described, do by these presents convey unto —, his heirs and assigns, all that [*here describe the premises*], with the appurtenances, to hold the same unto the said —, his heirs and assigns, [*here state the uses, trusts, or purposes of the conveyance, as the case may require.*]

In witness whereof we have hereunto set our hands and affixed our seal this — day of —.

#### CAP. XCIV.

An Act to amend the Laws relating to the Militia.

[13th August, 1860.]

- Sect. 1. *Power to unite portions of militias of two or more counties to form an artillery corps.*
2. *Appointment of committee for providing storehouse for united militia artillery corps in England.*
3. *Meetings of committee.*
4. *Powers of committee. Lands purchased for the purposes of this act to be conveyed to trustees.*
5. *Power for the appointment of new trustees in case of death, &c.*
6. *As to payment of expenses incurred by committee.*
7. *Storehouse, how to be provided in Scotland.*
8. *Provision for storehouses for united militias.*
9. *Expenses of storehouses in Ireland.*
10. *Payments to counties in respect of expenses of providing quarters for permanent staff.*
11. *Provision in respect of counties who have already provided accommodation for permanent staff.*
12. *Treasurers of counties to be accountable to treasurers of boroughs for payments by Secretary of State.*
13. *Borough justices may administer oaths to militia volunteers.*
14. *Militia volunteers may be drilled in addition to other times of training.*
15. *So much of sect. 12 of the 22 & 23 Vict. c. 38, as provides the modes in which deserters shall be tried, repealed. Deserters, &c. may be tried summarily by justices, unless Secretary at War shall order otherwise.*
16. *Term of service of deserters from embodied militia extended.*
17. *Provision as to enlistment of militia volunteers in the regular forces.*
18. *Stoppage of pay of militiamen fraudulently enlisting in her Majesty's forces, &c., or entering the navy.*
19. *Allowances for travelling expenses of officers attending courts-martial.*
20. *In case of invasion, or imminent danger thereof, her Majesty may raise the militia in Scotland to 15,000 men.*
21. *Militia of Ireland may be increased in like cases to 45,000.*

Whereas it is expedient to amend the laws relating to the militia as hereinafter provided: be it therefore enacted &c. as follows:—

Sect. 1. It shall be lawful for her Majesty, by order signed by one of the Principal Secretaries of State, and in Ireland

for the Lord Lieutenant or other chief governor or governors of Ireland, by order signed by his or their chief secretary or under secretary, from time to time to direct the respective lord lieutenants to unite such portions of the militia of two or more counties, ridings, divisions, or places in Great Britain as may be specified in such order, and to form such united portions into a corps of militia artillery, and to direct what number of officers, and of what respective ranks, shall be appointed to such united corps, and what shall constitute the staff thereof, and what officers shall be appointed by the several lord lieutenants respectively, and to direct in which of the several counties, ridings, divisions, or places, the arms, accoutrements, clothing, and other stores belonging to the united corps shall be kept, and by the same or any other order to determine (as regards England) the number of justices to be elected on behalf of each county, riding, division, or place, for forming a committee for providing and maintaining the storehouse in which such arms, accoutrements, clothing, and other stores are to be kept.

2. Where any such united corps of militia artillery is formed in England, the justices of every county, riding, division, or place from which such united corps is formed shall, at the general or quarter sessions next after the said order has been notified to them by the lord lieutenant, elect the number of justices mentioned in such order, to be, with the justices elected in like manner for every other such county, riding, division, or place, a committee for providing and maintaining such storehouse as aforesaid.

In case any member of any such committee die, resign, or become incapable to act, the justices for the county, riding, division, or place for which he was elected, at any general or quarter sessions for such county, riding, division, or place, shall elect some other justice in his place; but, notwithstanding any vacancy in any committee, the continuing members may act as if no such vacancy had occurred.

3. Every such committee shall, within one month after their election, assemble at some convenient place, to be named in a notice to be given by two or more of the members thereof to the several members so elected, such notice to be given to each member personally, or left at his place of abode, or transmitted through the Post-office seven days at least before the time appointed for such meeting; and the said committee may adjourn the said meeting from time to time and from place to place, and meet when and so often as they think necessary; and they shall at their first meeting elect one of their number to be their chairman, who shall preside at all meetings at which he is present; and in case of his absence from any meeting, the members present shall elect one of their number to be chairman for the meeting, who shall preside at the meeting.

To constitute a meeting of the committee there shall not be less than three members, except for adjournment, which may be made by less than three; and every question shall be determined by a majority of votes, the chairman (whether permanent or temporary) having a vote, and, in the event of equality of votes, having a second or casting vote.

4. The said committee, or any three of them, shall have all the powers for providing, repairing, enlarging, altering and improving such storehouse as aforesaid as are or may be, given to the justices of a county for providing, enlarging, altering, and improving any storehouse for keeping the arms and other stores belonging to any regiment of militia of their county; and all the provisions of such act auxiliary to any such powers, and in relation to any such storehouse, shall extend and apply to and in the case of the powers conferred by this enactment, and any storehouse to be provided, altered, enlarged, or improved thereunder; and any lands to be purchased for the purposes of this act shall be conveyed to such persons, being not less than five in number, and in such manner as the committee purchasing the same may direct, in trust for the purposes of this act, and any conveyance to be so made shall have the like force and effect as a conveyance made under sect. 81 of the Lands Clauses Consolidation Act, 1845.

5. When and so often as any land purchased under this act shall be vested in less than three trustees, or there shall not be any trustee thereof living, it shall be lawful for the said committee, or any three or more of them, by an instrument in writing under their hands, to appoint such number of new trustees of such land as may be thought fit, and such appointment shall be deposited and kept among the records



of such one of the counties, ridings, divisions, or places interested therein as the committee may think fit, and all the estate and interest in such land which at the time of such appointment may be vested in any trustee or trustees in trust for the purposes aforesaid, or in any other person as heir or devisee, or otherwise subject to such trust, shall, by virtue of such appointment, vest in the trustees so appointed, either alone, or, if there be any continuing trustees or trustee, jointly with such continuing trustees or trustee, as the case may require, without any conveyance or assurance for that purpose.

6. The said committee shall from time to time certify to the treasurer of each county, riding, division, or place for the payment of the amount to be contributed by such county, riding, division, or place towards the expenses incurred by such committee, according to and in proportion to the number of men ordered to be contributed by such county, riding, division, or place to the united corps of artillery; and every treasurer to whom such amount is so certified shall raise such amount out of the same funds, and in the same manner, as sums required for the expenses of the storehouse for the militia of such county, riding, division, or place, and pay the same in manner directed by the certificate of the said committee; and every such certificate shall be signed by the said committee, or three or more of them.

7. Where any such united corps of militia artillery is formed in Scotland, the commissioners of supply of the county in which the stores thereof are directed to be kept shall forthwith, after the order shall have been notified to them by the lord lieutenant, provide a secure and suitable storehouse for keeping the arms, accoutrements, clothing, and other stores of the corps; and all the provisions and powers applicable to the providing a storehouse for the militia of such county, and the expenses incidental to the use and maintenance thereof, shall extend and be applicable to the providing a storehouse for such united corps, and the expenses incidental to the use and maintenance thereof; and the sums required as aforesaid shall be certified, contributed, and paid as now by law provided in the cases where several counties in Scotland contribute to the expenses of a place for the safe custody of the arms and stores belonging to a united corps of militia.

8. Where the militia of any county, riding, division, or place in England is united with the militia of any adjoining county, riding, division, or place, the enactments hereinbefore contained for providing for the keeping of the arms, accoutrements, clothing, and stores belonging to a united corps of militia artillery, and concerning the expenses of providing a storehouse for such united corps, and incidental to the use and maintenance thereof, shall be applicable in the case of the militia united as aforesaid, save that the expenses shall be defrayed in proportion to the quotas fixed for the respective counties, ridings, or places of which the militias are united.

9. Where any united corps of militia artillery is formed in Ireland, or where the militia of any county or county of a city in Ireland is united with the militia of any adjoining county or county of a city, the costs of providing, in such place as the Lord Lieutenant or chief governor or governors shall direct, the storehouses for keeping the arms, accoutrements, clothing, and other stores of the united corps of militia artillery, or of the militias united as aforesaid, shall be defrayed by the several counties, or counties of cities, from the militias of which the corps of militia artillery is formed, or of which the militias are united, (as the case may be), according to and in proportion to the number of men contributed by each county or county of a city to the united corps of artillery, or in proportion to the quotas fixed for each such county or county of a city of which the militias are united; and the necessary sums to be contributed by each county or county of a city for this purpose, including any arrears in respect of such costs before the transmission of the certificate thereof, shall be raised by the presentment of the grand jury of each such county, and as to the cities of Dublin, Cork, and Limerick, by the town councils of the boroughs of Dublin, Cork, and Limerick respectively, on a certificate of the sum required, signed and transmitted in like manner as provided in relation to the costs of providing any house or place for the keeping of the arms, accoutrements, clothing, or other stores of the militia in such county, or county of a city, by the act of the session holden in the

17 & 18 Vict. c. 107, and all the provisions of the said act applicable to and in respect of such costs shall be applicable to and in respect of the sums to be contributed and raised in Ireland under this act.

10. If the Lord Lieutenant or other chief governor or governors of Ireland shall deem it expedient that the whole or any number of the permanent staff of the militia of any county or county of a city, or of the united militia of any counties, or of any united artillery corps, should be provided with quarters in the storehouse of such militia, united militia, or united artillery corps, it shall be lawful for the grand jury of such county or counties, or for the town council of the borough of Dublin, Cork, or Limerick, as the case may be, to provide by presentment the cost of such quarters; and in every such case, and also where, in England, in any county, riding, division, or place, the justices in general or quarter sessions, or any committee appointed under this act, or in Scotland the commissioners of supply, add to the buildings provided or to be provided for keeping the arms and stores of the militia quarters for such number of the permanent staff as the Secretary of State shall deem expedient to be quartered as a guard for the arms and stores, it shall be lawful for the Secretary of State from time to time, out of monies to be provided by Parliament for this purpose, to cause to be paid to the treasurer of such county, riding, division, or place, or such commissioners of supply, such yearly sum as the Secretary of State may have agreed so to pay before such quarters are provided, to be applied in aid of the rates or assessments out of which, or of monies raised on the security of which, the expenses of providing such quarters have been defrayed; and where such expenses have been incurred on account of any united corps of militia or united militias, such sum shall be apportioned by the Secretary of State between or among the counties, ridings, divisions, or places which may have contributed to such expenses in proportion to its contribution thereto, and be paid to the treasurers of the respective counties, ridings, divisions, or places, or the commissioners of supply of the respective counties accordingly.

11. Where before the passing of this act any quarters shall have been provided for the permanent staff of the militia by any county, riding, or place, it shall be lawful for the Secretary of State, upon being satisfied of the sufficiency of such quarters, to approve thereof in the same manner as if the same had been erected with his sanction subsequent to the passing of this act, and it shall thereupon be lawful for the Secretary of State to cause to be paid to the treasurer of such county, riding, or place such yearly sum as he may think fit, in the same manner and to be applied for the same purposes as if under the provision hereinbefore contained such sum had been agreed to be paid by him before such quarters had been provided.

12. The treasurer of every county, riding, division, or place receiving any such payment from the Secretary of State shall be accountable in respect thereof to the treasurer of every borough which may have contributed to the expenses of providing the quarters in proportion to its contribution to such expenses.

13. The oath which under the act of the session holden in the 15 & 16 Vict. c. 50, is to be taken by every volunteer raised as in the said act mentioned, may be administered by any justice of the peace for any city or borough, county, riding, or place where such volunteer may happen to be.

14. It shall be lawful for her Majesty, by order or regulations signified by the Secretary of State, to direct that any militia volunteer, upon or at any time after his enrolment, be drilled, trained, or exercised, by way of preliminary instruction, at the head-quarters of the regiment, battalion, or corps in which he is enrolled, or at any other convenient place, for any time not exceeding twenty-eight days, although the regiment, battalion, or corps, or any part thereof, be not then called out for training and exercise; and during the period of preliminary instruction under this provision the volunteer shall be subject to the same articles of war, and to the same laws in all respects, as if he were a militiaman lawfully called out for training and exercise; but such period shall not be reckoned in lieu or in diminution of the time in the same year during which he might have been called out for training and exercise with all or any part of the same corps independently of this enactment.

15. And whereas, by sect. 12 of the act of the session

holden in the 22 & 23 Vict. c. 38, after providing that every deserter from the militia, and every person who in respect of any offence against the militia laws is deemed a deserter, may be tried by a regimental court-martial, or may be tried summarily by any justice or justices of the peace as therein mentioned, it is enacted, that it shall be lawful for the Secretary at War to direct in which of the aforesaid modes any such deserter shall be tried: so much of the said section as provides that it shall be lawful for the Secretary at War to direct in which of the aforesaid modes any such deserter shall be tried shall be repealed; and every such deserter, and every such person who in respect of any offence against the militia laws is deemed a deserter, shall be tried summarily by any justice or justices of the peace having jurisdiction under the said section, unless it be shewn to such justice or justices that the Secretary at War has ordered such deserter or person to be tried by a regimental court-martial under the provision hereinafter contained; and it shall be lawful for such Secretary at War, by any general or special directions or regulations, to order any such deserter or person, or any class or description of such offenders, with reference to the time or circumstances of their being apprehended or otherwise, to be tried by regimental court-martial according to the provisions in the said section mentioned for such trial, and every such deserter or person to whom such desertion or regulation is applicable shall thereupon be tried and dealt with accordingly.

16. Every deserter from any regiment, battalion, or corps of militia of any part of the United Kingdom, which is embodied at the time of such desertion or afterwards, shall, whether he shall or shall not have been punished for his offence, be liable to serve for an additional period equal to the time which may have elapsed between the time of his desertion and the time when he is apprehended or voluntarily returns to his regiment, battalion, or corps; the period of such additional service to commence from the expiration of the period for which he was inrolled, or from the time of his apprehension or return, which may last happen.

17. It shall be lawful for the colonel or commanding officer of any regiment, battalion, or corps of militia, pursuant to any regulations or directions of the Secretary at War, to authorise any militia volunteer or volunteers belonging to such regiment, battalion, or corps to enlist in her Majesty's regular forces, and to give to any such volunteer a conditional discharge from the militia, to become absolute on his being enlisted into, attested, and finally approved for her Majesty's regular forces within a time limited by such colonel or commanding officer, in pursuance of such regulations or directions; and in case such volunteer be so enlisted, attested, and finally approved within the time so limited, his enlistment shall be valid, but otherwise such discharge shall be void.

18. Except as hereinbefore provided, any militiaman who enlists in her Majesty's regular forces, or her Majesty's Indian forces, or Royal Marine forces, or who enters her Majesty's navy, during the continuance of his engagement in the militia, shall, if retained to serve in the forces in which he has so enlisted, or in the navy, as the case may be, (in lieu of the stoppages, if any, to which he may now by law be liable), be subjected to a stoppage of 1d. a day of his pay for eighteen calendar months, to be applied as the Secretary of State shall direct; but no such militiaman so enlisting or entering shall be released from his engagement as a militiaman, or be relieved from any liability consequent on his wrongful enlistment or entry, save by or in pursuance of the order of the Secretary of State, and which order, when the said militiaman shall be within the United Kingdom, shall be given only with the consent of the commanding officer of the regiment, battalion, or corps to which such militiaman belongs, and his service under such wrongful enlistment or entry shall not be reckoned for pension until the day on which his engagement for the militia would have expired.

19. So much of the act of the 55 Geo. 3, c. 168, ss. 3, 4, and of the act of the session holden in the 17 & 18 Vict. c. 106, ss. 55, 56, as provides that officers attending to form courts-martial shall be entitled to 2s. for every mile for going to such court-martial, at the commencement thereof, and returning after the conclusion of the proceedings of the court, shall be repealed; and all officers attending to form such courts as in the said sections mentioned shall be entitled to such allowances for their travelling expenses in going to such

court-martial and returning therefrom as the Secretary at War by regulations may from time to time direct.

20. It shall be lawful for her Majesty, in case of actual invasion, or imminent danger thereof, the reason being first communicated to Parliament if Parliament be then sitting, or declared in Council and notified by proclamation if Parliament be not sitting or in being, to order and direct by her royal proclamation, that, in addition to the number of private militiamen authorised to be raised and kept up for the militia in Scotland by the act passed in the session holden in the 17 & 18 Vict. c. 106, there shall be forthwith raised and inrolled for the militia in Scotland such number of men as to her Majesty may seem fit, so as the whole number of men for the time being raised for the militia in Scotland shall not exceed 15,000 private militiamen, and the lieutenants and deputy lieutenants of the several counties in Scotland shall forthwith proceed to raise and inrol such additional men, at such time or times as shall be specified for that purpose in such proclamation; and all the provisions applicable to the militia raised in Scotland shall extend and be applicable to and for the raising, inrolling, training, and exercising, and the drawing out and embodying of the additional men so ordered and directed to be raised and inrolled, and to the additional men so raised: provided always, that it shall be lawful for her Majesty, whenever she may deem it expedient so to do, to reduce the whole or any part of such additional number of men, and by royal proclamation to declare such reduction accordingly.

21. It shall be lawful for the Lord Lieutenant or other chief governor or governors of Ireland, in case of actual invasion, or imminent danger thereof, to be signified by proclamation from such Lord Lieutenant or chief governor or governors, to order and direct, by proclamation, that, in addition to the number of private militiamen authorised to be raised and kept up in Ireland by the act passed in the session holden in the 17 & 18 Vict. c. 107, there shall be forthwith raised and inrolled for the militia in Ireland such number of men as to such Lord Lieutenant or chief governor or governors may seem fit, so as the whole number of men for the time being raised for the militia in Ireland shall not exceed 45,000 private militiamen, and the lieutenants and deputy lieutenants of the several counties and places in Ireland shall forthwith proceed to raise and inrol such additional men, at such time or times as shall be specified for that purpose in such proclamation; and all the provisions applicable to the militia raised in Ireland shall extend and be applicable to and for the raising, inrolling, training, and exercising, and the drawing out and embodying of the additional men so ordered and directed to be raised and inrolled, and to the additional men so raised: provided always, that it shall be lawful for the Lord Lieutenant or other chief governor or governors of Ireland, whenever he or they may deem it expedient so to do, to reduce the whole or any part of such additional number of men, and by proclamation to declare such reduction accordingly.

#### CAP. XCV.

An Act to facilitate the building of Cottages for Labourers, Farm Servants, and Artisans by the Proprietors of entailed Estates in Scotland. [13th August, 1860.]

The preamble recites stats. 10 Geo. 3, c. 51; 11 & 12 Vict. c. 36; and 16 & 17 Vict. c. 94.

Sect. 1. Provisions of rected acts, as to improvement of entailed estates, to include erection of cottages.

2. Erection of cottages to be held as permanent improvements contemplated by the 11 & 12 Vict. c. 36, and the 16 & 17 Vict. c. 94.

3. Court or sheriff to be satisfied that entailed estates will be permanently benefited, and that cottages have been substantially erected.

#### CAP. XCVI.

An Act to amend the Police of Towns Improvement Act, so as to enable Towns and populous Places in Scotland to avail themselves of its Provisions for sanitary and other Improvements, without at the same Time adopting its Provisions as regards the Establishment and Maintenance of a Police Force. [13th August, 1860.]

The preamble recites stat. 13 & 14 Vict. c. 33.

Sect. 1. Householders may adopt certain provisions of rected act without those for establishment of police, &c.

2. Two or more contiguous burghs, &c. may adopt provisions of recited act.
3. Annual accounts may be made up for the year ending at Whitsunday, and one auditor to be sufficient.
4. Commissioners may borrow on security of assessments due and unpaid.
5. Proprietors may redeem sewer rates without being liable for future interest on debt.
6. Recited act and this act to be construed together.
7. Short title.

CAP. XCVII.

An Act for amending and making perpetual the Railways Act, Ireland, 1851. [19th August, 1860.]

- Sect. 1. Periods of notices shortened.
2. After deposit of draft award the company may, upon deposit of such amount as the arbitrator may think fit, enter on lands.
3. Mode of deposit.
4. Deposit to remain as a security, and to be applied under the direction of the Court of Chancery.
5. Apportionment of rent-charge, &c., where part only of the land charged is required.
6. Apportionment of rent of lands under lease, where part only of such lands is required.
7. Costs in case of traverse.
8. Acts to be as one act, and to be perpetual.
9. Short title.

CAP. XCVIII.

An Act for taking the Census in Scotland. [20th August, 1860.]

- Sect. 1. Secretary of State to superintend census.
2. Copy of this act to be sent to every sheriff in Scotland.
3. Registrars' districts to be formed into enumerators' divisions.
4. Enumerators to be appointed.
5. Householders' schedules to be left at dwelling-houses. Occupiers to fill up the schedules, and sign and deliver them to the enumerator. Penalty for neglect.
6. Schedules to be collected from house to house, and corrected if found to be erroneous.
7. Enumerators to take an account of houses, &c., and to distinguish the boundaries of parishes, boroughs, &c. Enumerators to deliver their books, with the householders' schedules, to the registrar.
8. Registrars to verify the enumerators' books, and deliver them to the sheriff, &c.
9. Returns to be given to the sheriffs of counties and chief magistrates of burghs.
10. Sheriffs of counties and chief magistrates of burghs to receive the returns, and transmit them to the Registrar-General.
11. An abstract of returns to be printed, and laid before Parliament.
12. Masters, &c. of gaols, &c. to be appointed enumerators of the inmates thereof.
13. Returns of houseless poor, and of persons travelling or on shipboard.
14. Table of allowances to enumerators and other persons employed.
15. Payments to be certified to the Registrar-General.
16. Manner in which the payments shall be made to persons employed in execution of this act.
17. Penalty for wilful default.
18. Penalty for refusing information or giving false answers.
19. Recovery and application of penalties.
20. Interpretation of terms.

CAP. XCIX.

An Act to continue the Corrupt Practices Prevention Act, 1854. [20th August, 1860.]

The preamble recites stats. 17 & 18 Vict. c. 102; 21 & 22 Vict. c. 87; and 22 & 23 Vict. c. 48.  
Act continued until the 10th August, 1861.

CAP. C.

An Act to repeal so much of the Act of the 22 & 23 Vict. c. 27, and of certain other Acts, as authorises the Secretary of State in Council to give Directions for raising European Forces for the Indian Army of Her Majesty.

[20th August, 1860.]

So much of stat. 22 & 23 Vict. c. 27, and of certain other acts, as authorises the Secretary of State in council to give directions for raising European forces for the Indian army of her Majesty, repealed. Provision as to certain persons who have served in India.

CAP. CI.

An Act to continue the Poor-law Board. [20th August, 1860.]

The preamble recites stat 11 Vict. c. 109; and it is then enacted,

That the commissioners appointed by her Majesty the Queen, or to be appointed by her Majesty, her heirs and successors, under the authority of the said act, together with every person by the said act constituted, in virtue of his office, such commissioner, and every officer and person appointed or to be appointed by the commissioners under the provisions of the said act, shall be empowered, unless he shall previously resign or be removed, to hold his office, and exercise the powers thereof, until the 23rd July, 1863; and until the expiration of the said last-mentioned period it shall be lawful for her Majesty, her heirs and successors, from time to time, at pleasure, to remove the commissioners for the time being appointed by her Majesty, or to be appointed by her Majesty, her heirs and successors, and upon every vacancy in the office of such commissioner, to appoint, as in the said act is described, some other fit person to the said office.

CAP. CII.

An Act to provide for the Management of East India Stock, and of the Debts and Obligations of the Government of India, at and by the Bank of England.

[20th August, 1860.]

- Sect. 1. *Arrangements for transfer of stock of the East India Company, and payment of dividends thereon at the Bank of England.*
2. *Secretary of State for India in council to pay to the East India Company the sum agreed to be paid to the Bank of England.*
3. *Powers of attorney existing previous to the 31st December, 1860; not to be defeated by the act; and the Bank of England authorised to act on any powers lodged with the East India Company.*
4. *Evidence of the title to stock may be required by the Bank.*
5. *Secretary of State for India in council to pay the dividends half-yearly to the Bank.*
6. *Secretary of State for India in council to make such arrangements as shall be deemed expedient with the Bank of England for payment of the debts and obligations of the Government of India, and the interest thereon.*
7. *Secretary of State for India in council to open accounts at the Bank of England for payment of current demands.*

Whereas under their charter the East India Company are directed to cause an accountant to keep a book or books in the public office or place of meeting of the same company, and therein to enter the amount of the capital stock of the same company; and it is by the charter directed that the method of making assignments and transfers of the said stock shall be by an entry in the said book or books in forms prescribed by the said charter, and that the entry signed as therein prescribed, and no other way or method, shall be the manner and method used in the passing, assigning, or transferring the interest or share in the said stock and fund: and whereas, by the act of the 3 & 4 Will. 4. c. 85, it is enacted, that out of the revenues of the British territories in India there shall be paid to or retained by the said company a yearly dividend of 10l. 10s. per centum on the capital stock of the said company: and whereas it is expedient to empower the directors of the said company to make arrangements with the

Governor and Company of the Bank of England for the management of the said capital stock by the Governor and Company of the Bank of England, and for the transfer thereof at the said Bank: and whereas it is expedient to enable the Secretary of State for India in council to defray the expenses incident to such arrangements: be it therefore enacted &c. as follows:—

Sect. 1. From and after the 31st August, 1860, the provisions contained in the said charter which require the East India Company to keep books in the public office or place of meeting of the company for the entry of the capital stock of the company, and which relate to the method and form of making assignments and transfers of the said stock in the said books, shall cease to be of force; and the directors of the East India Company are hereby empowered to make arrangements with the Governor and Company of the Bank of England for the management of the said capital stock by the Governor and Company of the Bank of England, and for the transfer thereof, and the payment of the dividends thereon at the said Bank on and after the 1st September, 1860, or so soon afterwards as may be found convenient, in such manner and form, and upon such terms and conditions, and for such remuneration, as may appear to the said directors expedient and equitable, and be mutually agreed upon by them and the Governor and Company of the Bank of England, subject to the consent of the Secretary of State for India in council, so far as relates to the amount of such remuneration.

2. The Secretary of State for India in council shall half-yearly, at the same time that he shall pay to the East India Company the dividend on the capital stock of the said company due and payable to the said company under the act of the 3 & 4 Will. 4, c. 85, pay also to the said company, out of the revenues of India, such further sum as may have been mutually agreed upon by the directors of the said company and the Governor and Company of the Bank of England, with such consent as aforesaid, as the remuneration to be paid by the said company for the expenses incurred and the duties undertaken by the Governor and Company of the Bank of England under this act.

3. In the event of such arrangements as aforesaid being made with the Governor and Company of the Bank of England, all powers of attorney for transfer of any share in the said capital stock, or for receipt of the dividends thereon, made or executed at any time before the 31st December, 1860, shall be as valid and effectual as if this act had not passed, and the Governor and Company of the Bank of England are hereby authorised and required to give effect thereto in the same way as the East India Company would have been authorised and compellable so to do if this act had not passed; and the said Governor and Company shall be and they are hereby indemnified from any act done by them in reliance on, or on the authority of, any such power, or of any power of attorney which may, previously to the taking effect of such arrangements, have been lodged at the office of the East India Company.

4. In the event of such arrangements as aforesaid being made, the Governor and Company of the Bank of England, before allowing any transfer of any part of the said stock, or the receipt of any dividends thereon, shall be at liberty to require evidence of the title of any proprietor to any of the said stock or the dividends thereof, and such evidence shall be the declaration of competent persons, to be made in pursuance of the act of the 6 Will. 4, c. 62, or of such other nature as the Governor and Company of the Bank of England shall require.

5. In the event of such arrangements as aforesaid being made, the Secretary of State for India in council shall, in the month of December, 1860, and in every subsequent year, so long as the dividends on the said capital stock shall continue to be payable, fifteen days at the least before each of the half-yearly days on which a dividend on the said capital stock becomes payable, out of such monies as may be applicable to the payment of the dividends, cause to be paid to the chief cashier for the time being of the Bank of England, to the credit of the East India Company, the amount of the dividend payable to the said company under the act 3 & 4 Will. 4, c. 85.

6. The Secretary of State for India in council shall be and he is hereby authorised from time to time to make such arrangements with the Governor and Company of the Bank

of England as shall be deemed expedient for the payment at the Bank of England of the debts and obligations contracted by or on behalf of the East India Company, and by or on behalf of the Secretary of State for India in council, both in India and Great Britain, and of the interest to accrue thereon, and for the creation and registration, and for the transfer of, and the payment of interest on, any stock into which any such obligations may be convertible, and for the appointment of one or more person or persons for the purpose of drawing bills, on behalf of the Secretary of State in council of India, upon the Governor-General, and the governors of the several presidencies of India respectively, and otherwise in relation to the management of such debts and obligations.

7. It shall be lawful for the Secretary of State for India in council from time to time to open at the Bank of England such account or accounts for the payment of current demands as he may deem expedient, such account or accounts to be kept in such name or names, and drawn upon by such person or persons, and in such manner, as may from time to time be directed by the said Secretary of State in council, which accounts shall be deemed public accounts.

#### CAP. CIII.

An Act to apply the Sum of Ten Millions out of the Consolidated Fund to the Service of the Year 1860.

[20th August, 1860.]

Sect. 1. There shall be applied for the service or the year 1860 the sum of 10,000,000*l.* out of the Consolidated Fund.

2. The Treasury may cause 10,000,000*l.* of Exchequer bills to be made out in manner prescribed by stats. 48 Geo. 3, c. 1; 4 & 5 Will. 4, c. 15; and 5 & 6 Vict. c. 66.

3. The clauses, &c. in recited acts extended to this act.

4. Interest on Exchequer bills.

5. Bank of England may advance 10,000,000*l.* on the credit of this act, notwithstanding the 5 & 6 Will. & M. c. 20.

6. Bills prepared by virtue of this act to be delivered to the Bank as security for such advances.

7. Monies raised by bills to be applied to the services voted by the Commons.

8. Exchequer Bills made chargeable upon the growing produce of the Consolidated Fund.

#### CAP. CIV.

An Act to enable the Trustees of the Royal College of St. Patrick at Maynooth to make Provision for certain necessary Buildings and Repairs.

[20th August, 1860.]

#### CAP. CV.

An Act to provide for the Management of the General Prisons at Perth, and for the Administration of Local Prisons in Scotland.

[20th August, 1860.]

The preamble recites stats. 2 & 3 Vict. c. 42; 7 & 8 Vict. c. 34; and 14 & 15 Vict. c. 37.

Sect. 1. Recited acts repealed, and this act to take effect.

2. Repeal not to affect the 20 & 21 Vict. c. 71.

3. Short title.

4. Interpretation of terms.

5. Appointments, claims, and obligations under repealed acts to continue.

#### Rules for Prisons.

6. Rules as existing to continue until altered.

7. "Secretary of State" to be substituted for "general board of prisons" in rules.

8. Authorised relaxations or modifications of rules to continue.

9. Secretary of State empowered to alter rules, or make new rules.

#### County Prison Boards.

10. County board for each county; and Orkney and Zetland taken to be separate.

11. County boards to be chosen by commissioners of supply and magistrates of burghs, and to consist of numbers set forth in Schedule (A.)

12. As to election of county boards.

13. Meetings of county boards. Chairman. Committees and quorum of county boards.

14. Lists of county boards to be transmitted to Secretary of State.
15. Powers and duties of county boards.
16. Appointment of clerks and treasurer.
17. Offices under county boards to be held at pleasure.
18. Power to county boards to grant retiring allowances, as prescribed in the 23 Vict. c. 26.
19. Secretary of State may dismiss persons employed by county boards, or in prisons.
20. Prisons and other property of existing boards vested in county boards under this act.
21. County boards may acquire property, sue and be sued &c.
22. Members of county boards to derive no profit from office. Sheriffs, &c. not disqualified.
23. Power to supply vacancies in county boards from time to time.
24. Provision for refusal or neglect by commissioners of supply, town councils, &c., and failure of county board.

*Local Prisons.*

25. Legal prisons to continue for the purposes for which they were legalised.
26. No material alteration to be made without consent of Secretary of State.
27. Secretary of State may alter legal condition of a prison, or legalise new prison.
28. Procedure when there is no prison for all descriptions of prisoners in any county.
29. Procedure when prisoners are committed to prisons legalised for short periods.
30. Procedure where there is no prison, or only a prison for limited purposes, within a burgh or other jurisdiction.
31. Disposal of premises ceasing to be prisons, or not necessary for prison purposes.

*Assessments.*

32. Assessment for current expenses.
33. Building assessment.
34. Clerk of the peace to apportion the total amount of assessment between the landward part of the county and the burghs therein.
35. Court of Session to order a building assessment to be raised when the county board fails to impose it.
36. Assessment to be levied on lands and heritages according to yearly value, as established by stats. 17 & 18 Vict. c. 91, and 20 & 21 Vict. c. 58.
37. Assessments payable for the period from Whitsunday to Whitsunday.
38. Assessments to be remitted to county boards.
39. Commissioners of supply to levy assessments in landward part of county.
40. Assessments may be levied on proprietor or tenant, and when of small amount may be postponed for two or more years.
41. Magistrates to levy assessments in burghs.
42. Common good property and revenues of burghs may be applied in payment of assessments.
43. Assessment within burghs to be divided between proprietor and tenant.
44. Warrants and proceedings for recovery of land and assessed taxes applicable to assessments under this act.
45. Boundaries of burghs for purposes of this act shall be as fixed by stats. 17 & 18 Vict. c. 91; 20 & 21 Vict. c. 58; and 20 & 21 Vict. c. 70.
46. Disputes arising as to assessment may be summarily settled by the sheriff.
47. Accounts to be published.
48. Counties may unite for erecting and maintaining local prisons.
49. As to arrears of assessment in Orkney.
50. Special local arrangements in Ross and Cromarty and Nairn.

*Reformatories.*

51. County boards may contribute to reformatories.

*Managers of the General Prison.*

52. Appointment of managers of the general prison at Perth.
53. Office accommodation of managers.
54. Expenses of managers to be paid out of monies voted by Parliament.

55. General prison at Perth, and rights, &c. belonging thereto, vested in the Commissioners of Works and Public Buildings.

56. Managers to complete matters left unfinished by general board, and transmit balances of assessments to county boards.

57. Provision for collecting, arranging, and reporting prison statistics.

58. Provision for inquiries into condition and management of prisons.

59. Return of sentences of imprisonment to be made to managers as in Schedule (B.)

60. Annual report to be made to Secretary of State by managers.

*General Prison and Custody of Convicts.*

61. Managers, subject to instructions of Secretary of State, to have the administration of the general prison.

62. Rules to be made for the staff of the general prison.

63. Classes of prisoners to be confined in the general prison.

64. Sentences of nine months and upwards to be carried out in the general prison.

65. Provisions for the administration of convict establishments appointed under existing statutes.

*Removals of Prisoners.*

66. As to removals of prisoners by county boards.
67. As to removals of prisoners by managers.
68. As to removals under order of Secretary of State.
69. Prisoners removed to general prison may be taken back to local prison.
70. Not to interfere with removal by court of law.

*Miscellaneous.*

71. Persons who are entitled to visit prisons.
72. Removal of prisoners diseased or in danger of life to hospitals, &c.
73. As to prisoners sentenced to hard labour.
74. Power to order male juvenile offenders to be punished by private whipping.
75. Penalty for introducing prohibited articles into prisons.
76. Laws as to aliment and liberation, and responsibility for safe custody, continued.
77. Stat. 8 & 9 Vict. c. 19, incorporated with this act for acquisition of lands.

**CAP. CVI.**

An Act to amend the Lands Clauses Consolidation Acts, 1845, in regard to Sales and Compensation for Land by way of a Rent-charge, Annual Feu Duty, or Ground Annual, and to enable Her Majesty's Principal Secretary of State for the War Department to avail himself of the Powers and Provisions contained in the same Acts.

[20th August, 1860.]

- Sect. 1. *Part of sect. 10 of recited act repealed.*
2. *Sects. 10 and 11 of recited act, as to power to sell, &c. lands for an annual rent-charge, and to recover, extended to all sales, &c., where parties are under disability.*
3. *Similar proviso with regard to lands sold under sect. 10 of the 8 & 9 Vict. c. 19.*
4. *Amount of rent-charge to be settled in manner directed in the 9th section of recited acts.*
5. *If lands purchased by way of rent-charge, borrowing powers to be reduced proportionally.*
6. *Certain clauses in the 8 & 9 Vict. c. 18, extended to purchases of land, &c. for public purposes.*
7. *Power to Secretary for War to use the powers given to promoters of undertakings by the 8 & 9 Vict. c. 18.*
8. *This act and the 8 & 9 Vict. cc. 18 and 19, to be construed together.*

Whereas it is expedient to extend the provisions of the Lands Clauses Consolidation Acts, 1845, in regard to sales of land, or compensation for damages, in consideration of an annual rent-charge, annual feu duty, or ground annual, and to enable her Majesty's Principal Secretary of State for the War Department to avail himself of the powers and provisions contained in the same act for the purchase of lands wanted for the service of the War Department, or for the defence of the realm: be it enacted &c. as follows:—

Sect. 1. So much of the 10th section of the Lands Clauses Consolidation Act, 1845, as provides that, save in the case of lands of which any person is seised in fee, or entitled to dispose absolutely for his own benefit, the consideration to be paid for any lands, or for any damage done thereto, shall be in a gross sum, is hereby repealed.

2. The power to sell and convey lands in consideration of an annual rent-charge provided by the 10th section of the said act, and the power to recover such rent-charge provided by the 11th section of the said act, are hereby extended to all cases of sale and purchase or compensation under the said act, where the parties interested in such sale, or entitled to such compensation, are under any disability or incapacity, and have no power to sell or convey such lands, or to receive such compensation, except under the provisions of the said act.

3. The power to sell and convey lands in consideration of an annual feu duty or ground annual, under the 10th section of the Lands Clauses Consolidation (Scotland) Act, 1845, and the power to recover such annual feu duty or ground annual, are hereby extended to all cases of sale or purchase, or compensation, under the said act, where the parties interested in such sale are under any disability or incapacity, and have no power to sell or convey such lands, or to receive such compensation, except under the provisions of the said act.

4. In every case of such sale or compensation by any parties other than parties seised in fee or entitled to dispose absolutely of the lands so sold or damaged, the amount of such rent-charge, annual feu duty, or ground annual, hereinbefore mentioned, shall be settled in the manner directed in the 9th section of each of the said acts respectively: provided that the amount of such annual rent-charge, annual feu duty, or ground annual shall in no case be less than one-fourth part greater than the net annual rent received by the parties beneficially interested in such lands, upon an average of the last seven years; and that a charge of 5l. per cent. on the gross sum estimated or fixed as aforesaid, by way of compensation for any damage that may be done to the said lands, shall in all such cases be added to and shall form a part of the said rent-charge, annual feu duty, or ground annual; and that no fine, foregift, grassum, premium, or other consideration in the nature thereof, shall be paid or taken in respect of the lands so sold or damaged, other than the annual rent-charge, annual feu duty, or ground annual made payable for such lands: provided also, that such rent-charge shall be and remain upon and for the same uses, trusts, and purposes as those upon which the rents and profits of the land so conveyed stood settled or assured at or immediately before the conveyance thereof, and shall be a first charge on the tolls and rates, if any, payable under the special act.

5. In case the promoters of the undertaking shall be empowered, by any act or acts relating thereto, to be passed after the passing of this act, to borrow money to an amount not exceeding a prescribed sum, then in the event of the promoters of the undertaking agreeing, at any time after the passing of this act, with any person, under the powers of this act, and of either of the acts hereinbefore mentioned, or of either of the said acts, only, for the purchase of any lands in consideration of the payment of a rent-charge, annual feu duty, or ground annual, the powers of the promoters of the undertaking for borrowing money shall be reduced by an amount equal to twenty years' purchase of any rent-charge, annual feu duty, or ground annual so for the time being payable.

6. The clauses contained in the Lands Clauses Consolidation Act, 1845, relating to the purchase of lands by agreement, and to agreements for sale, and conveyances, sales, and releases of any lands or hereditaments, or any estate or interest therein, by parties under disability, shall extend and be applicable to all purchases of land and hereditaments for public purposes which shall be hereafter made by the council of any city or borough, with the sanction of the Commissioners of her Majesty's Treasury, under the powers for that purpose contained in the Municipal Corporation Mortgages, &c. Act, 1860.

7. For the purchase or acquisition of any messuages, lands, tenements, and hereditaments wanted for the service of the Admiralty or of the War Department, or for the defence of the realm, it shall be lawful for her Majesty's Principal Secretary of State for the War Department for the time being to use all or any of the powers and provisions by the Lands

Clauses Consolidation Act, 1845, and by the Lands Clauses Consolidation (Scotland) Act, 1845, given to promoters of the undertaking, as therein mentioned, and for such purposes the said Principal Secretary shall be deemed and taken to be the promoters of an undertaking within the meaning of the said act; and all the powers and provisions thereof shall, if used by her Majesty's Principal Secretary of State for the War Department, be treated as if they were contained in the 5 & 6 Vict. c. 94, for the purpose of being used and made available by the principal officers of her Majesty's Ordnance, and had been transferred to the said Principal Secretary for the time being by the 18 & 19 Vict. c. 117, for the purposes aforesaid: provided always, that nothing herein contained shall authorise any purchase otherwise than by agreement of any land, except according to the provisions of the 23rd section of the said act of the 5 & 6 Vict., or prejudice or affect the powers and authorities of the said Principal Secretary for the time being under the said last-mentioned statutes, or either of them.

8. This act shall be read and construed as part of the said Lands Clauses Consolidation Act, 1845, or of the Lands Clauses Consolidation (Scotland) Act, 1845, in all matters in which it relates to the said acts respectively; and in citing this act in other acts of Parliament, and in legal instruments, it shall be sufficient to use the expression of "The Lands Clauses Consolidation Acts Amendment Act, 1860."

#### CAP. CVII.

An Act for granting to Her Majesty certain Duties on Wine Licenses and Refreshment Houses, and for regulating the Licensing of Refreshment Houses and the granting of Wine Licenses in Ireland. [28th August, 1860.]

Sect. 1. From and after the 1st July, 1860, certain duties to be charged for licenses herein mentioned.

2. Powers and provisions of excise acts to apply to the duties granted by this act.

3. Every person keeping a shop entitled to take out a license to retail wine not to be consumed on the premises.

4. What shall be deemed selling by retail.

5. Permitting drinking wine in a neighbouring house, shed, &c., with intent to evade the provisions of the act, to be deemed drinking on the premises. Penalty.

6. Persons keeping houses, &c. herein named required to take out licenses. Licenses not required for refreshment houses in small towns and places.

7. Confectioners and eating-house keepers entitled to take out licenses to sell wine to be drunk on the premises.

8. Wine licenses not to be granted for refreshment houses under a certain annual value. Persons disqualified to hold wine licenses.

9. Penalty for keeping a refreshment house without license, 20l.

10. By whom licenses under this act shall be granted. Forms of licenses as in schedules to this act.

11. Licenses; date, expiration, and renewal thereof.

12. On the death of a licensed person, his representative, or widow or child, may be authorised to continue the business for which the license was granted, for the remainder of the term thereof.

13. Notice of first application for a wine license for a refreshment house to be given to justices, who may object to the granting thereof on grounds to be stated.

14. Sub-constabulary officer or superintendent of police may object to the granting of such wine license.

15. Persons aggrieved may appeal to quarter sessions.

16. If order of refusal reversed supervisor to grant such license.

17. Justices may object to the renewal or transfer of a wine license if they shall see just cause of objection.

18. A list of licenses to be kept by collectors and supervisors for inspection of the justices, and copies of the list to be transmitted to the justices' clerk.

19. In case of complaint licensed retailers of wine to produce their licenses on requisition of justice.

20. Constables and police officers empowered to visit licensed refreshment houses. Penalty for refusing them admittance. License to be forfeited on second conviction if justices think fit.

21. Penalty for selling wine by retail without license.

22. Additional penalty on unlicensed persons selling wine.

23. What shall be deemed foreign wine and what be deemed spirits.
24. Licenses to be void on conviction of felony or selling spirits without license.
25. Licensed retailers of wine to make entry of houses, &c. with the excise.
26. Excise officers, &c. empowered to enter the premises of licensed retailers of wine.
27. Penalty on persons licensed to retail wine having spirits in their used premises.
28. Standard measures to be used in the sale of wine.
29. Limitation of hours for opening and closing houses licensed for the sale of wine by retail. Exception in favour of lodgers.
30. Houses licensed for the sale of wine to be closed by order of justices in cases of riot, &c.
31. Penalty on retailers of wine permitting drunkenness, &c. in their houses. First offence. Second offence. Third offence. Penalty for mixing spirits or drugs in wine, or adulterating wine. First offence. Second offence. Penalty on selling wine after conviction of second offence.
32. Penalties other than excise penalties recoverable before a justice or justices in petty sessions, &c. within three months after offence committed. Second offence. Third offence.
33. Justices may adjudge premises disqualified for sale of wine on proof that within two years last preceding such third conviction two convictions have taken place.
34. Penalties for offences in refreshment houses.
35. Power to justices to mitigate penalties.
36. Appeal to the sessions against a second or third conviction.
37. Court to adjudge costs of appeal in certain cases.
38. Proceedings on appeal to be carried on by the constable, and the expenses of prosecution to be charged on the county.
39. Justice or justices empowered to summon witnesses, and examine them on oath.
40. Penalty on witnesses refusing to attend or to give evidence.
41. Penalty for harbouring constables while on duty.
42. Penalty on drunken and disorderly persons refusing to quit licensed houses on request. Constables required to assist in expelling them.
43. Hours for keeping open premises occupied by persons licensed to sell beer, &c. to be consumed on the premises.
44. Proceedings under this act for the recovery of penalties, &c.
45. How excise penalties under this act are to be recovered &c.
46. Covenants against houses, &c. being used as public houses to extend to persons licensed to sell wine under this act.
47. Interpretation of terms.
48. To extend to Ireland only.

CAP. CVIII.

An Act to amend the Industrial Schools Act, 1857.

[26th August, 1860.]

Sect. 1. Powers of the Committee of Council on Education, under the 20 & 21 Vict. c. 48, transferred to the Secretary of State.

2. The application which, by the 15th and 16th sections of the said act, is directed to be made by the school manager, may be made by any person authorised by the Secretary of State.

CAP. CIX.

An Act for defraying the Expenses of constructing Fortifications for the Protection of the Royal Arsenal and Dockyards, and the Ports of Dover and Portland, and of creating a Central Arsenal.

[28th August, 1860.]

CAP. CX.

An Act to consolidate the Duties of Customs.

[28th August, 1860.]

Sect. 1. In lieu of the duties, &c. now payable, the duties, rates, &c. to be charged as herein mentioned.

2. Repeal of prohibition of malt.

3. Prohibition of extracts of malt, &c.

4. Description of goods in entry.

5. Rates, if exceeding 10s., may be paid in cash.

6. Agent to act for captain, &c.

7. Commencement of the act. Short title.

Sect. 1. In lieu of the duties and drawbacks of customs, rates, and charges now payable on the importation or exportation of goods into or from Great Britain and Ireland; there shall be charged and allowed on the importation into and exportation from Great Britain and Ireland of the following articles the several duties and drawbacks of customs, rates, and charges hereinafter mentioned.

Duties of Customs, &c.

1. Beer and ale, viz.—
 

Mum .. ..	the barrel	£1 0 0
Spruce .. ..	the barrel	1 0 0
Of other sorts .. ..	the barrel	1 0 0
2. Cards, viz.—
 

Playing cards .. ..	the dozen packs	0 15 0
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3. Chicory, or any other vegetable matter applicable to the uses of chicory or coffee, viz.—
 

Raw or kiln-dried .. ..	the cwt.	0 6 0
Roasted or ground .. ..	the lb.	0 0 4
4. Chloroform .. ..
 the lb. | 0 3 0 |
5. Cocoa .. ..
 the lb. | 0 0 1 |
- Husks and shells .. ..
 the cwt. | 0 2 0 |
- Paste or chocolate .. ..
 the lb. | 0 0 2 |
6. Coffee .. ..
 the lb. | 0 0 3 |
- kiln-dried, roasted, or ground .. ..
 the lb. | 0 0 4 |

A drawback shall be allowed on all roasted coffee exported as ship's stores, or removed to the Isle of Man for consumption there, equal in amount to the import duty on raw coffee.

7. Corks, ready made, until the 31st March, 1862, inclusive .. ..
 the lb. | 0 0 3 |
8. Corn, grain, meal, and flour, and articles of the like character, viz.—
 

Wheat .. ..	each the qr.	0 1 0
Barley .. ..		
Oats .. ..		
Rye .. ..		
Peas .. ..		
Beans, (not kidney or French) .. ..		
Maize or Indian corn .. ..		
Buck wheat .. ..		
Bere or bigg .. ..		
Wheat meal and flour .. ..		
Barley meal .. ..		
Oatmeal and groats .. ..		
Rye meal and flour .. ..		
Pea meal .. ..		
Bean meal .. ..		
Maize or Indian corn meal .. ..	each the cwt.	0 0 4
Buck-wheat meal .. ..		
Meal, not otherwise enumerated or described .. ..		
Arrow-root .. ..		
Barley, pearled .. ..		
Biscuit and bread .. ..		
Cassava powder .. ..		
Macaroni .. ..		
Mandioca flour .. ..		
Manna crop .. ..		
Potato flour .. ..		
Powder, viz. hair .. ..		
— perfumed .. ..		
— not otherwise enumerated or described, that will serve the same purpose as starch .. ..		
Rice dust and meal .. ..		
Sago .. ..		
Semolina .. ..		
Starch .. ..		
— gum of, torrified or calcined .. ..		
Tapioca .. ..		
Vermicelli .. ..		



9. Dice .. .. .	the pair	£1 1 0
10. Essence of spruce .. .. .	for every 100l. value	10 0 0
11. Fruit, not raw nor preserved in sugar, viz.—		
Currants .. .. .	each the cwt.	0 7 0
Figs .. .. .		
Fig cake .. .. .		
Plums, commonly called		
French plums, and prunelloses .. .. .		
— dried or preserved, (except in sugar), not otherwise described .. .. .		
Prunes .. .. .		
Raisins .. .. .		
12. Hats or bonnets, until 31st March, 1861, inclusive, viz.—		
Of chip .. .. .	the lb.	0 1 3
Of bast, cane, or horsehair .. .. .	the lb.	0 1 3
Of straw .. .. .	the lb.	0 1 3
13. Hops, until 31st December, 1860, inclusive	the cwt.	2 5 0
From 1st January, 1861, to 31st December, 1861, inclusive .. .. .	the cwt.	1 0 0
From and after that date .. .. .	the cwt.	0 15 0
14. Malt .. .. .	the quarter	1 5 0
15. Paper, on and after the 16th August, 1860, viz.—		
Brown paper, made of old rope or cordage only, without separating or extracting the pitch or tar therefrom, and without any mixture of other materials therewith .. .. .	the cwt.	0 18 0
Printed, painted, or stained paper-hangings, or flock paper .. .. .	the cwt.	0 14 0
Gilt, stained, coloured, embossed, and all fancy kinds, not being paper-hangings .. .. .	the cwt.	0 16 0
Waste paper, or paper of any sort, not particularly enumerated or described, not otherwise charged with duty .. .. .	the cwt.	0 16 0
Millboards .. .. .	the cwt.	0 18 0
Pasteboard .. .. .	the cwt.	0 15 0
Books, viz.—		
Being of editions printed in or since the year 1801, bound or unbound, the cwt.		0 16 0
Admitted under treaties of international copyright, or if of and from any British possession .. .. .	the cwt.	0 15 0
Prints and drawings, viz.—		
Plain or coloured .. .. .	the cwt.	0 16 0
Prints, &c. admitted under treaties of international copyright .. .. .	the cwt.	0 15 0
— or and at the option of the importer,		
Single .. .. .	each	0 0 0½
Bound .. .. .	the dozen	0 0 1½
16. Pepper of all sorts .. .. .	the lb.	0 0 6
And 5l. per cent. thereon.		
17. Plate, viz.—		
Of gold .. .. .	the ounce troy	0 17 0
Of silver, gilt or ungilt .. .. .	the ounce troy	0 1 6
18. Ships, with their tackle, apparel, and furniture, viz.—		
Foreign, built of wood, and ships built of wood in any of her Majesty's possessions abroad, on the registration thereof as British ships at any port or place for the registry of British ships in Great Britain and Ireland, for every ton of the gross registered tonnage, without any deduction in respect of engine-room or otherwise .. .. .		0 1 0
19. Spirits or strong waters, not being sweetened or mixed with any article, so that the degree of strength thereof cannot be ascertained by Sykes's hydrometer, for every gallon of the strength of proof by such hydrometer, and so in proportion for any greater or less strength than the strength of proof, and for any greater or less quantity than a gallon, on and after the 17th July, 1860, viz.—		
Brandy .. .. .	the gallon	0 10 5
Geneva .. .. .	the gallon	0 10 5

Rum of and from any foreign country, being the country of its production .. .. .	the gallon	£0 10 2
Rum from any country, not being the country of its production .. .. .	the gallon	0 10 5
Tafia of and from any colony of France .. .. .	the gallon	0 10 2
Rum and spirits of and from a British possession in America or the island of Mauritius, and rum of and from any British possession within the limits of the East India Company's charter, in regard to which the conditions of stat. 4 Vict. c. 8, have or shall have been fulfilled .. .. .	the gallon	0 10 2
Unenumerated .. .. .	the gallon	0 10 5
Other spirits, being sweetened or mixed so that the degree of strength cannot be ascertained as aforesaid, on and after the 17th July, 1860, viz.—		
Rum shrub, liqueurs and cordials, of and from a British possession in America or the island of Mauritius, or a British possession within the limits of the East India Company's charter, in regard to which the conditions of stat. 4 Vict. c. 8, have or shall have been fulfilled, .. .. .	the gallon	0 10 2
Perfumed spirits, to be used as perfumery only .. .. .	the gallon	0 14 0
Water, Cologne, the flask, (thirty of such flasks containing not more than one gallon) .. .. .	each	0 0 6
Water, Cologne, when not in flasks, to be charged as "perfumed spirits," viz. .. .. .	the gallon	0 14 0
Unenumerated .. .. .	the gallon	0 14 0
Spirits or strong waters, imported into the United Kingdom, mixed with any ingredient, and although thereby coming under some other designation, except varnish, shall nevertheless be deemed to be spirits or strong waters, and be subject to duty as such.		
20. Sugar, and articles composed thereof or sweetened therewith, until the 30th June, 1861, inclusive, viz.—		
Candy, brown or white, refined sugar, or sugar rendered by any process equal in quality thereto .. .. .	the cwt.	0 18 4
White clayed sugar, or sugar rendered by any process equal in quality to white clayed, not being refined, or equal in quality to refined .. .. .	the cwt.	0 16 0
Yellow Muscovado and brown clayed sugar, or sugar rendered by any process equal in quality to yellow Muscovado or brown clayed, and not equal to white clayed .. .. .	the cwt.	0 13 10
Brown Muscovado or any other sugar, not being equal in quality to yellow Muscovado or brown clayed sugar .. .. .	the cwt.	0 12 8
Cane juice .. .. .	the cwt.	0 10 4
Molasses .. .. .	the cwt.	0 5 0
Almonds, paste of .. .. .		
Cherries, dried .. .. .		
Comfits, dry .. .. .		
Confectionery .. .. .		
Ginger, preserved .. .. .		
Marmalade .. .. .		
Plums, preserved .. .. .		
Succades, including all fruits and vegetables preserved in sugar, not otherwise enumerated .. .. .	each the lb.	0 0 2

The following drawbacks on the several descriptions of refined sugar hereinafter mentioned shall, until the 30th June, 1861, inclusive, be allowed, on exportation thereof to foreign parts, or on removal to the Isle of Man for consumption there, or on deposit thereof in any approved warehouse,

upon such terms and subject to such regulations as the Commissioners of Customs may direct, for delivery therefrom as ship's stores only, or for the purpose of sweetening British spirits in bond; that is to say—

Upon refined sugar, in loaf, complete or whole, or lumps duly refined, having been perfectly clarified and thoroughly dried in the stove, and being of a uniform whiteness throughout, or sugar candy, or sugar refined by the centrifugal machine, or by any other process, and not in any way inferior to the export standard, No. 3, approved by the Lords of the Treasury .. for every cwt. £0 17 2

Upon such refined sugar already described, if pounded, crushed, or broken in a warehouse approved by the Commissioners of Customs, such sugar having been there first inspected by the officers of customs in lumps or loaves, as if for immediate shipment, and then packed for exportation in the presence of such officers, and at the expense of the exporters,

for every cwt. 0 17 2

Upon refined sugar unstoved, pounded, crushed, or broken, and not in any way inferior to the export standard sample, No. 1, approved by the Lords of the Treasury, and which shall not contain more than five per cent. moisture over and above what the same would contain if thoroughly dried in the stove .. for every cwt. 0 16 4

Upon bastard or refined sugar unstoved, broken in pieces, or being ground, powdered, or crushed, not in any way inferior to the export standard sample, No. 2, approved by the Lords of the Treasury .. for every cwt. 0 15 1

Upon bastard or refined sugar, being inferior in quality to the said export standard sample, No. 2 .. for every cwt. 0 12 8

21. Tea, until the 30th June, 1861, inclusive, the lb. 0 1 5

22. Tobacco, the following duties, with 5l. per cent. thereon, viz.—

Unmanufactured, stemmed, or stripped, the lb. 0 3 0

unstemmed .. the lb. 0 3 0

Manufactured, or cigars .. the lb. 0 9 0

Snuff .. the lb. 0 6 0

Stalks, and flour of, and snuff work - prohibited.

Manufactured in Great Britain or Ireland, made into cut, shag, roll, or carrot tobacco, or cigars, such cigars, when exported as merchandise, being packed in cases containing not less than eighty pounds net weight, a drawback shall be allowed on exportation or shipment as stores .. the lb. 0 2 7½

with 5l. per cent. thereon.

23. Varnish, containing any quantity of alcohol or spirit .. the gallon 0 12 0

24. Vinogar .. the gallon 0 0 3

pickles, preserved in the gallon 0 0 1

Water, Cologne.—See Spirits.

25. Wine, until the 31st December, 1860, inclusive, viz.—

Red .. the gallon 0 3 0

White .. the gallon 0 3 0

Lees of such wine .. the gallon 0 3 0

The growth and produce of any British possession, and imported direct from thence, the following duties, and 5l. per cent. thereon, viz.—

Red .. the gallon 0 2 9

White .. the gallon 0 2 9

Lees of such wine .. the gallon 0 2 9

The full duties on wine may be drawn back upon exportation or shipment as stores on or before the 31st December, 1860, inclusive, but not on less of wine.

On and after the 1st January, 1861—  
And without any allowance for drawback.

Containing less than the following rates of Proof Spirits, verified by Sykes's Hydrometer, viz.—	18 Degrees.	26 Degrees.	40 Degrees.	45 Degrees.	If imported in Bottles, and containing less than 40 Degrees.
Wine—	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Red, the gallon	0 1 0	0 1 9	0 2 5	0 2 11	0 2 5
White ..	0 1 6	0 1 9	0 2 5	0 2 11	0 2 5
Lees of such wine ..	0 1 0	0 1 9	0 2 5	0 2 11	0 2 5

All wine containing 45 per cent. and upwards of proof spirit, as verified by Sykes's hydrometer, imported into Great Britain and Ireland, shall be deemed to be mixed spirits, and charged with duty as such; and no more than 10 per cent. of such proof spirit shall be used in the fortifying of any wine in bond; nor shall any wine be fortified in bond to a greater degree of strength than 40 per cent. of such proof spirit.

26. Wood and timber, foreign and colonial, viz.—

Hewn .. the load £0 1 0

Sawn or split, planed or dressed the load 0 2 0

Firewood .. the load 0 1 0

Hoops .. the load 0 2 0

Lathwood .. the load 0 1 0

Shovel hilts .. the load 0 2 0

Staves exceeding 72 inches in length, 7 inches in breadth, or 3½ inches in thickness .. the load 0 2 0

Staves not exceeding 72 inches in length, nor 7 inches in breadth, nor 3½ inches in thickness, (except staves for herring barrels) .. the load 0 1 0

Teak and wood for shipbuilding purposes, formerly admitted free, and treenails of all sorts .. the load 0 1 0

Furniture or hard woods, viz.—

Amboyna wood ..

Beefwood ..

Blackwood ..

Boxwood ..

Cedar ..

Cherry wood ..

Cochinella ..

Ebony ..

Kingwood ..

Lignum vitae ..

Mahogany ..

Maple ..

New Zealand ..

Olive wood ..

Partridge wood ..

Purple wood ..

Rosewood ..

Santa Maria wood ..

Satin wood ..

Saunders or sandal, white

or yellow ..

Speckled wood ..

Sweetwood ..

Tulip wood ..

Walnut wood, except gun

stocks ..

Zebra wood ..

Furniture and hard woods

unenumerated, (except

veneers), not being ash,

beech, birch, elm, oak,

and wainscot ..

each the ton 0 1 0

A drawback on the exportation of wood and timber, proportionate to the duties of customs paid thereon, shall be allowed: provided that the person entitled thereto, and claiming the same, shall make and subscribe a declaration that the goods in respect of which he claims such drawbacks are of foreign or colonial produce, as the case may be, and shew to the satisfaction of the Commissioners of Customs that cus-

toms duties to the like amount have been paid thereon upon the importation thereof.

Goods not prohibited to be imported into or used in Great Britain or Ireland, composed of any article liable to duty as a part or ingredient thereof, shall be chargeable with the full duty payable on such article, or if composed of more than one article liable to duty, then with the full duty payable on the article charged with the highest rate of duty.

#### *Rates and Charges on Importation.*

There shall be charged (irrespective of any duties of customs or other rates or charges payable by law) upon the importation of all goods into Great Britain and Ireland, except corn, grain, and flour, and timber and wood goods, and goods in transit exported under bond, and goods imported for exportation in the same ship, provided they be so reported, the respective rates and charges following, as defined and required by the provisions of the Customs Tariff Amendment Act, 1860, and under and subject thereto; that is to say—

Goods in packages or parcels, per package or parcel, or other unit of entry .. ..	£0 0 1
Goods in bulk, by weight, measure, or number, for each unit of entry .. ..	0 0 1
Animals, per head, or other unit of entry .. ..	0 0 1

#### *Charges on Goods on Delivery from Warehouse for Home Consumption.*

There shall be charged upon goods deposited in any warehouse for security of duties of customs, in addition to such duties and any other charges thereon, for every 100 pounds of such duties of customs payable thereon, the rates following, viz.—

On delivery for home consumption from any warehouse approved under the Customs Consolidation Act, 1853—	
In respect of tobacco .. ..	£0 2 6
In respect of other goods .. ..	0 5 0

Whether such tobacco or other goods shall have been removed to such warehouse under bond or not.

On delivery for home consumption from any warehouse at any port or place not possessing the privileges of bonding at the time of the passing of this act, or from any warehouse approved under any act other than the Customs Consolidation Act, 1853, viz.—

In respect of tobacco .. ..	0 5 0
In respect of other goods .. ..	0 10 0

#### *Charges on Goods exported.*

There shall be charged (irrespective of any duties of customs or other rates or charges payable by law) upon every customs bill of lading, on the exportation of any goods from Great Britain and Ireland, as required by the provisions of the Customs Tariff Amendment Act, 1860, and under and subject thereto .. .. 0 1 6

2. So much of the Customs Consolidation Act, 1853, as prohibits the importation of malt into the United Kingdom, is hereby repealed.

3. Extracts and essences of malt and of hops, and other concentrations thereof respectively, which are or may be applicable to the same purposes, are hereby prohibited to be imported into Great Britain and Ireland.

4. Upon the entry of any goods liable to duties of customs, the same shall be described in the entry thereof according to the denominations, weight, measure, number, quantity, or value, as the case may be, set forth in this act, or in such other manner as the Lords of the Treasury or the Commissioners of Customs may at any time or from time to time direct.

5. If the rates of 1d. per unit of entry, made payable, under sect. 19 of the Customs Tariff Amendment Act, 1860, by stamps, shall amount to more than 10s. upon any entry or entries, or other document or documents to which the Commissioners of Customs are authorised to direct the same to be affixed, the same may, at the option of the person liable thereto, with the sanction of the said commissioners, and under such regulations as they may see fit, be paid in cash.

6. When any act required by the said last-mentioned act to

be done by the master of any ship, or his agent, at or after the final clearance of the ship, shall not have been so done before the departure of the ship, his agent shall do and perform the same, under and subject to the penalties imposed by the said act for non-performance thereof; and in order to the identity of such agent for that purpose, such agent shall countersign the content of the ship at or before the clearance thereof by himself or the clerk acting for him in the clearance of such ship; and any agent either of the master of any ship or of the exporter of any goods who shall withhold any customs bill of lading, specification, or other instrument required by the said act to be delivered to the proper officer of customs, by the master of any ship or his agent, or by the exporter of any goods or his agent, shall be subject and liable to the penalties thereby imposed by the said act on the master of any ship, or the exporter of any goods, for default in the delivery of such customs bill of lading, specifications, or other instrument within the time prescribed for the delivery thereof respectively.

7. This act shall come into operation on the day of the passing thereof, except as otherwise provided herein; and in citing it in other acts of Parliament, and in legal instruments, it shall be sufficient to use the expression "The Customs Duties Consolidation Act, 1860."

#### CAP. CXL

An Act for granting to Her Majesty certain Duties of Stamps, and to amend the Laws relating to the Stamp Duties.

[29th August, 1860.]

Sect. 1. *After the passing of this act the duties described in schedule to be charged.*

2. *Stamp duties now payable on instruments, &c. mentioned in schedule repealed.*

3. *Allowances on bill and receipt stamps granted by acts 13 & 14 Vict. c. 97, and 17 & 18 Vict. c. 83, to cease, and an allowance granted in lieu thereof.*

4. *Provisions of former acts to apply to this act.*

5. *The duties on foreign promissory notes to be denoted by adhesive stamps.*

6. *Construction of the terms "contract note" and "insurance."*

7. *Stamps on contract notes may be impressed or adhesive; if adhesive, to be cancelled.*

8. *On renewal of insurance the receipt to be chargeable with the duty.*

9. *Adhesive or impressed stamps, or both, may be used for insurances.*

10. *The stamp duty on policies of insurance on lives for sums not exceeding 25l. reduced.*

11. *No duty on insurance of workmen's tools not exceeding 20l.*

12. *The stamp on an agreement may be adhesive.*

13. *Every delivery order to be deemed to be upon a sale or transfer, unless otherwise stated. Penalty for false statement. Order not to be invalid.*

14. *The stamp duty on a delivery order to be paid by the person requiring the order.*

15. *Weight notes not to be liable as dock warrants.*

16. *Certain copies or extracts from registers not to be chargeable with stamp duty.*

17. *Certain orders on bankers not to be subject to more than 1d. stamp.*

18. *Bankers may affix stamps to drafts or orders drawn on them.*

19. *Sect. 18 of the 55 Geo. 3, a. 184, prohibiting the issuing of bankers' notes with printed dates, repealed. Drafts on bankers for less than 20s. to be lawful.*

20. *Licenses to hawkers and pedlars granted in England or Scotland to be good for any part of Great Britain.*

21. *Commissioners of Inland Revenue may remit penalties under the said acts.*

22. *Persons in the service of the Post-office may sell postage stamps, &c. without license.*

23. *The 20 & 21 Vict. c. 77, probates and administrations, England. The 20 & 21 Vict. c. 79, Ireland. If Treasury direct district registrars to be paid by salary, they may also direct the fees to be collected &c. by means of stamps.*

Sect. 1. From and after the day of the passing of this act there shall be granted, raised, levied, and paid in and throughout the United Kingdom of Great Britain and Ireland, for the use of her Majesty, her heirs and successors, for and in respect of the several instruments, matters, and things described or mentioned in the said schedule, or for or in respect of the vellum, parchment, or paper upon which any of them respectively shall be written, the several stamp duties or sums of money set down in figures against the same respectively, or otherwise specified and set forth in the said schedule, which said schedule, and the several provisions, regulations, and directions therein contained with respect to the said duties, and the instruments, matters, and things charged therewith, shall be deemed and taken to be part of this act; and shall be applied and put in execution accordingly: provided that nothing herein contained shall in any way alter or affect the act passed in the 12 & 13 Vict., intitled "An Act to confer certain Powers on the Railway Passengers Assurance Company," or the duties thereby imposed.

2. The stamp duties now payable for and in respect of the several instruments, matters, and things mentioned or described in the schedule to this act annexed, whereon other duties are by this act granted, shall respectively from and after the day of the passing of this act cease and determine, and the same are hereby repealed: provided that the stamp duties now chargeable on any of the said instruments, matters, and things, and not the said other new duties, shall be payable in respect of such of them as shall be made, signed, or dated at any time before or upon the day of the passing of this act.

3. From and after the 31st December, 1860, the allowances granted respectively by the 18th section of the act passed in the 12 & 14 Vict. c. 97, in respect of stamps for receipts, and by the 24th section of the act passed in the 17 & 18 Vict. c. 83, in respect of stamps for drafts, bills, and notes, and any allowance granted by or payable under any other act in respect of any of the stamps hereinafter mentioned, shall cease; and in lieu thereof there shall be granted and allowed to every person who at one and the same time shall produce at the office of the Commissioners of Inland Revenue in London or Dublin paper to be stamped with stamps for denoting any rate of duty not exceeding 1s. on bills of exchange, drafts, or orders, or promissory notes, or stamps for denoting the duty of 1d. on any instrument or document whatever, (except postage stamps and customs stamps), to the amount of 2l. or upwards in the whole of all or any of such stamps as aforesaid, and to every person who at one and the same time shall purchase any such stamps as aforesaid at the office of the said commissioners in London, Edinburgh, or Dublin, to the amount aforesaid, or of any distributor or sub-distributor of stamps at any place not within the distance of ten miles from the said offices respectively, to the amount of 1l. or upwards, an allowance of 10d. for every 20s. of the amount of the duties denoted by such stamps.

4. All the powers, provisions, clauses, regulations, directions, allowances, and exemptions, fines, forfeitures, pains, and penalties contained in or imposed by any act or acts, or any schedule thereto, relating to any duties of the same kind or description heretofore payable in the United Kingdom, and in force at the time of the passing of this act, shall respectively be of full force and effect with respect to the duties by this act granted, and to the vellum, parchment, paper, instruments, matters, and things charged and chargeable therewith; and to the persons liable to the payment of the said duties, so far as the same are or shall be applicable in all cases not hereby expressly provided for; and shall be observed, applied, allowed, enforced, and put in execution for and in the raising, levying, collecting, and securing of the said duties hereby granted, and otherwise in relation thereto, so far as the same shall not be superseded by, and shall be consistent with, the express provisions of this act, as fully and effectually to all intents and purposes as if the same had been herein repeated and specially enacted; mutatis mutandis, with reference to the duties by this act granted.

5. The duties by this act granted on promissory notes made, or purporting to be made, out of the United Kingdom, shall be denoted by adhesive stamps, to be provided by the Commissioners of Inland Revenue for the purpose, or by any stamps of sufficient amount which shall have been provided for denoting the duties on bills of exchange made out of the

United Kingdom; and the proper adhesive stamp for denoting the duty on any such note shall be affixed thereon, and be cancelled at the same time and times, and in like manner, as is provided by the 5th section of an act passed in the 17 & 18 Vict. c. 83, and the 12th section of an act passed in the present session, cap. 15, in the case of bills of exchange therein respectively mentioned; and under the like penalties respectively for any neglect thereof; and the said respective sections shall be read as if the same were inserted in this act expressly in reference to the promissory notes aforesaid, and the duties by this act granted thereon, as well as to the bills of exchange therein respectively mentioned.

6. The term "contract note," wherever the same is used in this act, shall mean any note or memorandum mentioned or referred to under the head "contract note" in the schedule to this act; and the term "insurance" shall mean also and shall include the term "assurance."

7. The stamp duty on contract notes may be denoted either by impressed or adhesive stamps, and the said commissioners shall provide stamps of both descriptions; and in any case where a contract note is made, and the same is not written on an impressed stamp, there shall be affixed thereon a proper adhesive stamp; and every person who shall make or sign a contract note to which an adhesive stamp shall be affixed shall effectually cancel and obliterate the stamp by writing upon or across it his name, or the name of his firm, or the initials thereof respectively, and by adding thereto the date of such cancelling, and so and in such manner that the said stamp cannot be used upon or for any other document or writing; and if any person shall make or sign any contract note by this act chargeable with stamp duty without the same being duly stamped to denote the said duty, or shall refuse or neglect to cancel and obliterate as aforesaid any adhesive stamp affixed thereon, he shall forfeit the sum of 20l.; and no charge for brokerage, commission, agency, or otherwise, made or to be made by any broker, agent, or other person in or about the sale or purchase mentioned or referred to in any contract note made or signed by him, shall be lawful unless such contract note shall be duly stamped, and the stamp thereon, if adhesive, properly cancelled.

8. Where any insurance in respect of which a policy or agreement is chargeable with stamp duty under this act shall be renewed or continued on the payment of further premium or consideration; whether in pursuance of any stipulation in the policy or agreement or otherwise, a receipt for each further premium or consideration shall be given by the person who shall receive the same, and such receipt shall, for the purposes of this act, be and be deemed the policy or agreement for such renewed or continued insurance, and be chargeable with the duty by this act granted; and if any person shall receive any money for premium or consideration for any such insurance, and shall not within a month make out, and, if required, deliver, a duly stamped policy or agreement in respect thereof, or, in the case of a renewal or continuance of such insurance, shall not thereupon give such receipt as aforesaid duly stamped, or if any such person shall deliver or cause to be delivered any policy or agreement, or give or cause to be given any receipt, not duly stamped, he shall forfeit the sum of 20l.; and where the insurance shall be made, renewed, or continued by or for any society or company, the person who shall be a managing director, or the secretary or other principal officer thereof, at the time of the payment of any such premium or consideration, and of any such default or unlawful act being done or suffered as aforesaid, shall be held and deemed to be a person doing or suffering the default or unlawful act, and shall, as well as the society or company, and the members thereof who may by law be chargeable therewith, be subject and liable to the said penalty in respect thereof.

9. The duties hereby granted on instruments of insurance may be denoted by any adhesive stamps that the Commissioners of Inland Revenue may provide for the purpose, and in the meanwhile by any adhesive stamps provided by them not appropriated by name to any other instrument, as well as by impressed stamps, or by a combination of both impressed and adhesive stamps; and in any case where an adhesive stamp is issued, it shall be cancelled by writing upon the stamp the name of the person, or the society or company making the insurance, or the initials thereof; and the date of writing the same, and also any particulars relating to the insurance for which the stamp may be adapted

and in default thereof such person or society or company, and also the managing director, secretary, or other principal officer as aforesaid of any such society or company, shall forfeit the sum of 10*l*.

10. Whereas it is expedient to reduce the stamp duty now chargeable on policies of insurance upon lives for small sums: be it enacted, in lieu of the stamp duty of 6*d*. now payable upon or for or in respect of any policy of insurance or other instrument, by whatever name the same shall be called, whereby any insurance shall be made upon any life or lives, or upon any event or contingency relating to or depending upon a life or lives, where the sum insured shall not exceed 25*l*., there shall be charged and payable the stamp duty of 3*d*.

11. No insurance from loss or damage by fire in any sum not exceeding 20*l*., made, renewed, or continued at the instance or for the benefit of any working mechanic, artificer, handicraftsman, or labourer, on the tools or implements of work or labour used by any such person in his work or employment, shall be chargeable with any stamp duty; provided that such insurance be effected by a separate policy, or that a distinct sum be assured on such tools or instruments.

12. The stamp duty of 6*d*. by the act of the present session of Parliament, cap. 15, charged on an agreement under hand only, may be denoted by an adhesive stamp in any case where the same is capable of being used under the terms and restrictions hereinafter mentioned; and the Commissioners of Inland Revenue shall provide stamps for the purpose; and whenever any such adhesive stamp shall be used, every party to the agreement who shall sign the same shall also, at the time of so signing, write upon or across the stamp his name and the date of the day and year of writing the same, so that the stamp may be appropriated to the instrument, and effectually cancelled and rendered incapable of being used for any other; and in default thereof the stamp shall be of no avail; and proof of the said writing upon or across the stamp, as hereby required, shall be a necessary part of the evidence of the agreement in any case where such agreement is not stamped with an impressed stamp.

13. Every writing or document entitling or intended to entitle any person to the delivery of any goods, wares, or merchandise lying in any dock, port, or warehouse, or upon any wharf, as in the said act of the present session is mentioned, shall be deemed to be made and given upon a sale or transfer of the property in such goods, wares, or merchandise, unless the contrary shall be expressly stated therein by the person making or giving the same; and if any person shall untruly state, or by any word or words signify, or cause or permit to be untruly stated or signified, in any such writing or document, that the same is not made or given upon a sale or transfer, or if any person shall himself, or by his servant or other person, procure or require the delivery of any of the goods, wares, or merchandise therein mentioned, knowing that the same contains any such untrue statement, every such person shall forfeit, over and above any other penalty to which he may be liable, the sum of 20*l*.; but any such writing or document shall not, by reason of the same not being stamped, be invalid in the hands of the person having the custody of the goods, wares, and merchandise, and delivering out the same, unless such person shall be party or privy to the fraud thereby committed.

14. The stamp duty of 1*d*. payable on any such writing or document as in the last preceding clause is mentioned shall, in the absence of any special agreement between the parties relating to it, be paid by the person requiring the writing or document; and it shall be lawful, in any such case, for the person of whom the writing or document is required to refuse to give the same until the amount of the stamp duty thereon be paid to him.

15. Whereas a practice prevails, in relation to certain descriptions of goods, wares, and merchandise lying in docks and warehouses, and upon wharfs, for the company or person in whose custody the same may be to deliver to the owner thereof, in addition to a warrant evidencing the title to the property, a certain other document termed a weight-note, such document being intended to be delivered by or on behalf of the owner to the purchaser of the goods mentioned in the warrant upon any sale thereof before the completion of the contract for sale, but which other document, as well as the warrant, is chargeable with the duty of 3*d*. under the head "dock warrant" in the schedule to the said act of the present

session, and it is expedient that the same should be exempted from the said duty: be it therefore enacted, in any case where a document designated a warrant, chargeable with and duly stamped for denoting the payment of the said duty of 3*d*., and also a document termed a weight-note, or any other document of the like character or description relating only to the same goods, wares, or merchandise as are specified in the warrant, shall be issued by the company or person in whose custody the said goods, wares, or merchandise shall be, to the owner thereof, or his broker or agent, the weight-note or other document aforesaid shall be exempt from the said duty of 3*d*.

16. The stamp duty of 1*d*. by the said act of the present session charged upon a certified copy or extract of or from any register of births, baptisms, marriages, deaths, or burials shall not be deemed to have been or to be payable upon any such copy or extract which is or shall be furnished by any clergyman, registrar, or other official person, pursuant to and for the purposes of any act of Parliament, or to any general or superintending registrar under any general regulation, nor in any case where the person giving the copy or extract is not entitled to any fee or reward for the same.

17. No draft, or order, writing, or document for the payment, or for entitling any person to the payment, by or through any banker or person acting as a banker, of any sum of money, such draft, order, writing, or document being sent or delivered by the person making or giving the same to the banker or person acting as a banker by or through whom the payment is to be made, and not to the person to whom such payment is to be made, or to any person on his behalf, shall be chargeable or be deemed to have been chargeable with any higher stamp duty than 1*d*., notwithstanding the said payment shall be or have been thereby directed to be made at any time after the date thereof, which duty of 1*d*. may be denoted by an adhesive stamp, to be cancelled as in the case of a draft or order on demand.

18. Where any draft or order for the payment of money by any banker or person acting as a banker, chargeable with the stamp duty of 1*d*., shall come to the hands of such person unstamped, it shall be lawful for him to affix thereto the necessary adhesive stamp, and to cancel the same in manner by law required, and upon so doing to make the payment thereby directed, and to charge the duty in account against the person who ought to have paid the same, or to deduct such duty from the sum so directed to be paid; and such draft or order shall, so far as relates to the stamp duty chargeable thereon, be good and valid; but this shall not relieve any person from the liability to the penalty he may have incurred by issuing the said draft or order unstamped.

19. Whereas, by the 18th section of the act passed in the 55 Geo. 3, c. 184, the issuing of promissory notes payable to bearer on demand, with printed dates therein, is prohibited, and such prohibition is an unnecessary restriction: be it enacted, that the said section of the said last-mentioned act shall be and is hereby repealed: provided always, that notwithstanding anything in any act of Parliament contained to the contrary, it shall be lawful for any person to draw upon his banker, who shall *bonâ fide* hold money to or for his use, any draft or order for the payment to the bearer, or to order on demand, of any sum of money less than 20*l*.

20. Whereas, by an act passed in the 50 Geo. 3, c. 41, every hawker, pedlar, and petty chapman, and other trading person going from town to town or to other men's houses, in England, Wales, or Berwick-upon-Tweed, is required to take out a license as therein mentioned, and by an act passed in the 55 Geo. 3, c. 71, such trading persons in Scotland are also required to take out a license: be it enacted, that a license taken out under either of the said acts shall be sufficient to authorise the trading, according to the tenor of it, in any part of Great Britain, and shall be read as a license granted under both of the said acts.

21. If any person be convicted of an offence under either of the said two last-mentioned acts, it shall be lawful for the Commissioners of Inland Revenue, and they are hereby authorised, in case they shall see fit so to do, to remit the whole or any part of the penalty imposed by law for such offence, notwithstanding the same or some portion thereof may be payable to some party other than the Crown.

22. It shall be lawful for any person in the service or employment of the Post-office, without any license or any authority other than this act, to carry about for sale, and to

sell, at any place or places within the United Kingdom, postage stamps and printed forms of any kind issued from or used at the General Post-office, and any other matters and things relating to the business of the Post-office which are or may be authorised or permitted to be sold at any post-office; and such person shall not be subject or liable to any penalty or forfeiture for so doing, anything in any act or acts to the contrary notwithstanding.

23. Whereas, by the act passed in the 20 & 21 Vict. c. 77, for amending the law relating to probates and letters of administration in England, it is enacted that none of the fees payable to the officers of the Court of Probate, or of any county court, in respect of business under the act, except the fees of district registrars, (which were to be taken as their remuneration, and for their own use), should be received in money, but that every such fee should be collected and received by a stamp denoting the amount of the fee which otherwise would be payable, and provisions were therein made for the proper collection of such fees; and it was also enacted, that it should be lawful for the Commissioners of her Majesty's Treasury at any time to order that the district registrars, or any of them, should be paid by salaries instead of fees, and that thereupon all fees payable to them should be accounted for and paid into the Exchequer as the said last-mentioned commissioners should direct; and by an act passed in the 20 & 21 Vict. c. 79, for amending the law relating to probates and letters of administration in Ireland, similar enactments are contained; and it may be considered expedient, in cases where the said last-mentioned commissioners shall have directed, or shall at any time direct, the district registrars in England or Ireland to be paid by salaries instead of fees, that such fees should also be collected and received by means of stamps: be it therefore enacted as follows:—In any case where the Commissioners of her Majesty's Treasury have ordered, or shall at any time hereafter order, that any district registrar, under either of the said acts, shall be paid by salary, it shall be lawful for them at any time to order also that the fees or any of the fees authorised to be taken by such district registrar shall be collected and received by means of stamps; and thereupon, from and after the time to be fixed for that purpose by any such last-mentioned order, every such fee shall be collected and received by a stamp denoting the amount of the fee which otherwise would be payable, in the same manner, and under and subject to the same provisions, clauses, regulations, and directions in that behalf as are contained in the said acts respectively in relation to the fees thereby directed to be collected and received by means of stamps, and to the documents which ought to be stamped to denote such fees, as if such fees had not been excepted as aforesaid, but had been expressly directed by the said respective acts to be collected and received by means of stamps, as other fees are thereby respectively directed to be collected and received.

**SCHEDULE REFERRED TO, CONTAINING THE DUTIES BY THIS ACT IMPOSED.**

*Award in England or Ireland, and award or decret arbitral in Scotland:—*

Where the amount or value of the matter in dispute shall not exceed 50 <i>l.</i> .. .. .	£0 2 6
And where it shall exceed 50 <i>l.</i> , and not exceed 100 <i>l.</i> .. .. .	0 5 0
And where it shall exceed 100 <i>l.</i> , and not exceed 200 <i>l.</i> .. .. .	0 10 0
And where it shall exceed 200 <i>l.</i> , and not exceed 500 <i>l.</i> .. .. .	0 15 0
And where it shall exceed 500 <i>l.</i> , and not exceed 750 <i>l.</i> .. .. .	1 0 0
And where it shall exceed 750 <i>l.</i> , and not exceed 1000 <i>l.</i> .. .. .	1 5 0
And where it shall exceed 1000 <i>l.</i> , and also in all other cases not above provided for .. .. .	1 15 0

*Contract Note.*—Any note, memorandum, or writing, commonly called a "contract note," or by whatever name the same may be designated, for or relating to the sale or purchase of any Government or other public stocks, funds, or securities, or any stocks, funds, or securities, or share or shares of or in any joint-stock or other public company, to the amount or value of 5*l.* or upwards .. .. .

*Lease.*—Any assignment or surrender of a lease or tack for a term of years exceeding thirty-five, upon any other occasion than a sale or mortgage—A duty equal to the ad valorem duty with which a similar lease or tack would be chargeable, but no higher duty than 1*l.* 15*s.* shall be charged.

*Policy of Assurance or Insurance,* by whatever name the same shall be called, whereby any sum of money shall be assured, or agreed to be paid only upon the death of any person, from or by reason of any cause incident to or consequent upon travelling, whether by land or water, or any accident or external violence, or any cause whatever other than a natural cause; or whereby any compensation shall be assured or agreed to be made or paid for personal injury received from any cause whatever; or whereby both a sum of money upon death and a compensation for personal injury as aforesaid shall be assured and agreed to be paid; or whereby any assurance or insurance shall be made upon glass from loss or damage of any kind except by fire—

Where the premium or consideration for such assurance, insurance, or agreement shall not exceed 2*s.* 6*d.* .. .. .

£0 0 1

And where the same shall exceed 2*s.* 6*d.*, and shall not exceed 5*s.* .. .. .

0 0 3

And where the same shall exceed 5*s.*, then for every 5*s.*, and also for every fractional part of 5*s.* .. .. .

0 0 3

*Promissory Note* made in the United Kingdom for the payment of any sum of money exceeding 4000*l.*—

For every 1000*l.* or part of 1000*l.* of the money thereby made payable .. .. .

0 10 0

*Foreign Promissory Note* made or purporting to be made out of the United Kingdom for the payment within the United Kingdom of any sum of money—The same duty as on an inland bill of exchange for the payment otherwise than on demand of money of the same amount.

**CAP. CXII.**

An Act to make better Provision for acquiring Lands for the Defence of the Realm. [28th August, 1860.]

*Ascertaining the Lands to be taken, or to be kept free from Buildings.*

SECT. 1. Lands to be taken, and lands to be kept free from buildings, to be ascertained by declaration of Secretary for War.

2. Declaration, what to shew.

3. Restriction on taking certain descriptions of property.

4. Copy of declaration, &c. to be deposited with clerks of the peace, &c.

5. Clerks of the peace, &c. to receive and hold copies so deposited as under stat. 7 Will. 4 & 1 Vict. c. 83.

6. Notices to be affixed on church doors.

*Notices of Lands required to be taken, or to be kept free from Buildings.*

7. Notices to owners, &c. of land.

8. Contents of such notice.

9. How notice to be given.

*Determination of the Amount of Compensation by Agreement.*

10. Amount of compensation may be determined by agreement.

11. Corporations, tenants for life, trustees, committees, &c. empowered to agree.

*Determination of Amount of Compensation otherwise than by Agreement.*

12. How compensation to be settled in case of neglect to treat.

13. Provision where compensation claimed is under 200*l.*

14. Compensation to absent parties to be settled by a surveyor to be appointed by two justices.

15. Surveyor acting corruptly to be guilty of a misdemeanour.

16. Valuation to be preserved, and produced on demand.

17. Damage may be ascertained when works done.

18. In estimating damage from works, regard to be had to advantages derived.

19. Where any agreement in restraint of building exists, regard to be had thereto in estimating compensation.

*Payment and Application of Compensation in certain Cases.*

20. Provision for payment and application of compensation money in certain cases.

21. On payment into court of compensation, an addition to be made to meet future expenses.

22. Provision for payment into court on failure, for three months after compensation ascertained, to deduce a title.

23. Orders concerning money paid into court may be made at chambers.

*Provisions as to Costs.*

24. Costs of and incident to agreements, &c. under this act to be borne by Secretary of State.

25. Provision for costs when amount of compensation is determined by a jury or justices.

*Apportionment and Release of Rents and Incumbrances.*

26. Provision for apportionment of rents and incumbrances.

27. Power to release land from rent-charge, &c.

28. Who competent to make apportionment, &c.

*Power to use the Lands Clauses Consolidation Act, 1845.*

29. Secretary of State may avail himself of powers of stat. 8 & 29 Vict. c. 18.

*Vesting of Lands to be taken absolutely in the Secretary of State, and Power of immediate Entry.*

30. Lands taken to be vested in Secretary of State on behalf of her Majesty.

31. Power to Secretary of State to enter immediately.

32. Interest to be payable until payment of compensation money.

*Continuance of Liability to Tithe Rent-charges, Taxes, and Rates.*

33. Lands to continue subject to tithe rent-charges, taxes, and rates.

*Restraints and Powers to attach on Lands required to be kept free from Buildings.*

34. Restrictions and powers with respect to lands required to be kept free from buildings.

35. Limitation of time for works under last preceding enactment.

*Subsequent Compensation for Interests omitted to be purchased.*

36. Provision as to interests omitted to be purchased.

37. How value of such lands to be estimated.

38. Secretary of State to pay the costs of litigation as to such lands.

*Power to Secretary of State to withdraw Notices.*

39. Power to Secretary of State to withdraw notices.

*Power to divert Highways, &c.*

40. Power to divert highways, &c.

41. Power to alter the course of brooks, &c.

*Miscellaneous Provisions.*

42. Compensations to be paid out of monies provided by Parliament.

43. Protection to Secretary of State.

44. Provision for enforcing delivery of possession.

45. Notices, &c. required to be served on or given by Secretary of State to be served on or given by the solicitor.

*Amendment of the Defence Act, 1842.*

46. Stat. 5 & 6 Vict. c. 94, amended as herein stated.

*Interpretation.*

47. Interpretation of terms.

48. Short titles of stat. 5 & 6 Vict. c. 94; 18 & 19 Vict. c. 117, and this act.

CAP. CXIII.

An Act to grant Duties of Excise on Chicory, and on Licenses to Dealers in Sweets or Made Wines; also to reduce the Excise Duty on Hops and the Period of Credit allowed for Payment of the Duty on Malt and Hops respectively; to repeal the Exemption from License Duty of Persons dealing in Foreign Wine and Spirits in Bond; and to amend the Laws relating to the Excise. [28th August, 1860.]

Sect. 1. After commencement of act the duties hereafter named to be levied. On chicory and other vegetable matter applicable to the uses of chicory or coffee. On licenses to dealers in sweets or made wines.

2. Period of credit for payment of excise duty on malt reduced.

3. Excise duty on hops reduced.

4. Duty on hops, when to be payable.

5. Exemption from license duty of persons dealing in wine and spirits in bond repealed.

6. Powers and provisions of Excise Acts to apply to the duties granted by this act.

7. Dealers in sweets or made wines to take out license annually.

8. Dryers and roasters of chicory, &c., and dealers therein, to make entry of their premises. No person other than a dryer or roaster who has made entry shall have dried chicory, &c. in his possession.

9. Dryer to provide warehouse for storing dried chicory, &c.

10. Dryer to give notice of his intention to dry chicory, &c.

11. Dryer to give six hours' notice of his intention to remove chicory, &c. from kiln. Officer to attend, and chicory, &c. to be weighed and removed into warehouse in his presence. Penalty on dryer not removing chicory, &c. pursuant to his notice.

12. Dryer not to have any dried chicory, &c. on his premises elsewhere than in the warehouse or in the kiln, on pain of forfeiture.

13. Chicory, &c. not to be sent out of warehouse unless in presence of an officer. Not less than 1 cwt. to be delivered out. Warehouse not to be opened for delivery between six P.M. and six A.M.

14. Officer to keep a stock account of chicory, &c. received into and delivered out of the warehouse; and if there be any deficiency, dryer to be charged with the duty thereon, and liable to penalty. No penalty incurred unless the deficiency of stock exceed 2 per cent.

15. Officer of excise shall make periodical returns of the duty charged on dryers of chicory, &c. When and to whom duty to be paid.

16. Dryer of chicory, &c. to provide scales and weights, and assist the officers of excise in using the same.

17. No dryer to have in his possession dried chicory, &c. other than such as shall have been dried on his own kiln.

18. Businesses of a dryer of chicory, &c. and a roaster thereof, or of coffee, not to be carried on on the same or on adjoining and communicating premises.

19. Certain acts may be lawfully done by dryers and roasters of chicory under the regulations of the commissioners.

20. Dryers of chicory to provide accommodation for the officers of excise.

21. Construction of terms used in this act in relation to sweets or made wines and chicory.

22. Maltster to begin to steep only between seven o'clock A.M. and five o'clock P.M.

23. Removal of grain from cistern to couch frame, and time of remaining therein.

24. All cisterns in malthouses having any internal communication to be emptied on the same day.

25. When grain making into malt may be sprinkled.

26. Commissioners to make regulations with respect to corn or grain making into malt for the distillation of spirits.

27. Drawback allowed on exportation of duty-charged malt.

28. Exportation to be made under such rules and regulations as the Commissioners of Inland Revenue may make, and under the conditions specified in this clause.

29. Maltster to provide measures and scales and weights, and assistance in measuring and weighing.



30. Debenature to be given to exporter one month after exportation. In calculating quantity of malt,  $7\frac{1}{2}$  per cent. to be deducted.
31. Malt exported not to contain unmalted grain.
32. Provisions of former acts relating to the exportation of excisable commodities to apply to this act.
33. Penalty for breach of the provisions of this act.
34. Provisions of acts herein named, relating to duties of excise on malt, repealed.
35. Charging of excise duty on sugar used in brewing deferred until the 1st April, 1861.
36. Penalty on persons selling beer not brewed by them in wholesale quantities, without a license as dealers, as specified in the 6 Geo. 4, c. 81.
37. Persons retailing beer at places not specified in a license, to be deemed to retail beer without a license, and to be liable to penalty accordingly.
38. On the death of a person licensed to keep a hackney carriage, the license may be transferred to the widow or child, and also to the husband of a woman licensed before marriage.
39. Persons taken before a justice charged with an offence against laws of Inland Revenue may be remanded or admitted to bail.
40. Chief accountants of Inland Revenue may be appointed in lieu of an Accountant and Comptroller General.
41. The word "Finebury" deemed to be inserted in sect. 27 of cap. 27 of this session.
42. Penalty imposed in sect. 9 of cap. 27 of this session to be deemed an excise penalty.
43. A game certificate not required for killing rabbits in Ireland.

#### CAP. CXIV.

An Act to reduce into One Act and to amend the Excise Regulations relating to the distilling, rectifying, and dealing in Spirits. [28th August, 1860.]

#### *Interpretation and Definition of Terms.*

- Sect. 1. Construction of terms used in this act.
2. Persons having wash fit for distilling, and a still, deemed to be distillers.
- Licenses to Distillers, Rectifiers, and Compounders.*
3. No person to keep or use a still for distilling spirits, or make wort or wash, without a license for that purpose.
4. The licenses, entries, notices, declarations, &c. required by this act may be in such form as the commissioners shall direct. Notices and declarations not invalidated for want of form.
5. License for premises mentioned therein only.
6. Distillery to be within a quarter of a mile of a market town, or distiller to provide lodgings for officers.
7. No distiller in England to keep a still of less content than 400 gallons, or use more than two wash stills and two low wines stills with any still of less content than 3000 gallons.
8. No person to keep a still of less content than herein specified.
9. No license to be granted for any still of less content than 400 gallons without a certificate of three justices of the fitness of the person to be licensed.
10. Persons licensed to keep a still of 400 gallons content may keep a smaller still without certificate. Commissioners may refuse licenses for stills under 400 gallons content.
11. Commissioners may refuse to license stills in situations near rectifiers or brewers, and may also refuse to grant licenses to rectifiers, brewers &c., near distilleries.
12. Commissioners may revoke the license of any distiller convicted of obstructing officers.

#### *Description and Construction of Spirit Stores, Vessels, and Utensils to be provided.*

13. A proper spirit store to be provided in every distillery.
14. After obtaining license, and before making entry of utensils, distiller to erect certain chargers and receivers. Number of chargers and receivers allowed.
15. Description of vessels and utensils. Wash chargers. Low wines receiver. Feints receiver. Low wines and feints charger. Spirit receiver. Chargers and receivers, how to be erected. Dipping rods to be fixed therein. Description of spent lees receiver. Intermediate still charger. Penalty for constructing chargers or receivers contrary hereto.

16. General directions as to the mode and courses in which wash, low wines, feints, and spirits shall be conveyed through the several utensils.
17. Spirits to be removed from the receiver into an entered store-vat or cask.
18. Spirit receivers, how to be placed. Must admit of the gauge of spirits of the depth of fifteen inches, and be filled to that depth.
19. Commissioners may allow spirit receivers, erected before the 10th October, 1853, of a less depth than fifteen inches to be used. Mode of gauging and charging spirits in such case.
20. Commissioners may require apparatus to be applied to spirit receiver to prevent fraud.
21. Penalty for any pipe or opening in any still of a distiller, rectifier, or compounder, except as herein described.
22. Distillers, &c. to make an opening in their stills, through which officers may take samples, and the stills be cleansed. Fastenings to be provided for securing such opening and the head and furnace-door of the still.
23. The end of the worm of every still in a distillery to be inclosed and secured, and the spirits run into a close safe, &c.
24. Discharge cock to be fixed to each still, and kept locked.
25. A discharge cock or plug to be fixed in each fermenting wash back.
26. Construction of cocks used.
27. Distiller, rectifier, and compounder to provide proper cocks, pumps, fastenings, &c. at his own expense.
28. All cocks, plugs, pumps, &c. to be kept and affixed to the satisfaction of the officer, and repaired at the expense of the distiller, rectifier, and compounder. Penalty for neglect. Penalty for fraud.
29. Backs and fixed vessels for keeping spirits of distillers, rectifiers, and compounders, dealers and retailers, to have a dipping-place therein, and be gauged and tabled by the officers.
30. Commissioners may order more than one dipping-place to be made in spirit receivers, or in the covers of store-casks or vats of distillers.
31. Penalty if the dipping-place of any still or vessel be altered, or any device used to deceive the officer.
32. Penalty on distiller, rectifier, or compounder if the position or size of any still or vessel be altered without notice.
33. Commissioners may authorise distillers and others to use their present utensils, although not conformable to the provisions of this act.
34. Officer may require the water to be drawn off from the worm-tub for examination of the worm and tub.
35. The true content to be marked on moveable casks, and also the name or firm of the distiller, &c., and the place where his stock is kept.
- Making Entry of Premises and Utensils, and Regulations having reference to licensed and entered Premises.*
36. Utensils and rooms to be marked.
37. Entry to be made of the several places and utensils of trade. No still or utensil to be entered as used for more than one purpose.
38. Drawing or model to be given shewing the course of every fixed pipe to be used in a distillery, or by a rectifier or compounder.
39. Penalty for using any still, utensil, &c., or place not duly entered, or contrary to the entry.
40. No entry of any distillery or utensils to be withdrawn whilst wash or other materials for distillation remain therein.
41. Rectifying house not to be within a quarter of a mile of a distillery, nor a distillery within a quarter of a mile of a rectifying house or of another distillery.
42. Distiller or rectifier or compounder not to be a brewer, or a maker of sweets, vinegar, cider, or perry, or a refiner of sugar, nor carry on his business on premises having any private communication with the premises of any such trader.
43. Distillers, rectifiers, and compounders to affix a board on the front of their premises importing that they are licensed. Penalty on unlicensed persons affixing such board.
- Admission of Officers into entered Premises, and Power to search.*
44. Officers empowered to enter distilleries and premises of rectifiers and compounders to gauge, &c. Penalty for obstructing officers.

45. Penalty for not giving admission to the officer after declaring his name and business. Officer may break open distillery or entered premises on being refused admittance.

46. Distillers, rectifiers, and compounders to furnish officers with ladder and lights.

47. Officers may break up ground in distillery or rectifying premises to search for private pipes, &c.

48. Upon oath made of grounds to suspect any private concealed still, or private distillation, a special warrant to break open the suspected house, and to seize such stills, spirits, &c., may be granted. Penalty for obstructing officer.

*Materials for the Distillation of Spirits.*

49. Distiller to use only wort or wash made in his distillery.

50. What materials may be used in making wort.

51. During the recess of Parliament her Majesty may, by proclamation, prohibit the distillation of spirits from corn.

52. Distiller may grind malt with millstones.

*As to the using of Sugar, Molasses, and Treacle in the Distillation of Spirits.*

53. Distillers, on giving security, to have duty-free sugar and molasses delivered to them, to be used in distilling spirits.

54. Distiller to give bond, with sureties, conditioned to secure the due consumption of duty-free sugar and molasses in the distilling of spirits.

55. No sugar or molasses to be received by distillers except from the customs or excise warehouse, and in the same state as when cleared, and accompanied with a certificate from the officer.

56. No treacle to be received by distillers, except from the refiner or manufacturer, and in the same state and packages as when first packed, nor unless accompanied with a certificate from the refiner or manufacturer.

57. Distiller using sugar, molasses, or treacle to provide a storehouse at his distillery in which the same shall be deposited and secured. No sugar, &c. to be removed out of such storehouse except in the presence of the officer.

58. Distiller to give twelve hours' notice to the officer of receiving sugar, &c., and produce the same to him in the same state as received to be deposited in the storehouse.

59. Four hours' notice to be given before removing sugar, &c. from the storehouse to the mash tun. Sugar, &c. to be conveyed direct from the storehouse to the mash tun, or re-deposited.

60. Officer to keep an account of the stock of sugar, &c. in the storehouse.

*As to the fraudulent Disposal of Malt, Sugar, Molasses, or Treacle from a Distillery.*

61. Distillers prohibited from selling malt, sugar, molasses, &c.

62. Commissioners may revoke the license of a distiller on a second conviction of certain specified offences.

63. Persons found unlawfully removing malt, sugar, &c. from a distillery may be arrested, and taken before a justice, and summarily dealt with.

*As to the brewing and fermenting of Wort, and the distilling of Wash, Low Wines, and Feints.*

64. Distiller not to brew wort or use a still on Sundays.

65. Distiller to brew and distil in alternate periods only.

66. Distiller to give six days' notice of beginning to brew, and of recommencing brewing.

67. Distiller to give four hours' notice of each brewing of wort.

68. Yeast to be added only in the fermenting back.

69. Declaration to be given of the quantity and gravity of the wort when collected in the fermenting back.

70. Penalty on increase of gravity or quantity of the wort.

71. Penalty if wort or wash be found to exceed in gravity or quantity the gravity or quantity previously ascertained by the officer.

72. Saccharometer to be used for ascertaining the gravity of worts or wash.

73. Regulations for distillers making bub or other composition for exciting fermentation.

74. Distiller may sell yeast, or use it in his distillery.

75. Distiller may refill wash backs during a brewing period.

76. Before beginning to distil distiller shall declare that all wort and wash are collected into the fermenting wash backs.

77. Distiller to give four hours' notice before removing wash from the fermenting back to the wash charger.

78. The contents of wash charger to be conveyed into the still or charger before any other wash be removed.

79. Samples of wash may be taken, and the original gravity before fermentation determined, as herein directed.

80. Samples of wash may also be taken and distilled by the officer.

81. Distiller to clean out receivers, and assist the officer in distilling a charge of wash out of any wash back required by the officer.

82. If the produce of wash distilled exceed the proportion of one gallon and a quarter of proof spirits for every five degrees of attenuation, distiller subject to penalty.

83. Four hours' notice to be given for the removal of low wines, feints, or spirits from receivers, and officer to attend and take account thereof.

84. Low wines, spirits, and feints produced to be kept separate until account thereof be taken. Feints may be re-distilled. Officer may take account of the spirits and feints produced on such re-distillation.

85. Two spirit receivers may be used on certain conditions.

*As to the charging and Payment of the Duty on Spirits.*

86. Modes of charging duty:—First, by per centage from wash, according to the attenuation of the gravity thereof, one gallon for every five degrees attenuated:

87. Secondly, by the produce as found in the low wines:

88. Thirdly, by the produce on the re-distillation of low wines into spirits and feints.

89. Distiller to be charged from the highest gauge of wash without allowing for waste or dregs.

90. Sugar, &c. not to be mixed with low wines or spirits to prevent the strength being ascertained.

91. Officer from time to time to make returns of the quantity of spirits chargeable on the distiller, who shall pay the duty accordingly.

92. Collectors may distrain for duties in arrear from distillers.

93. Distiller to make entry at the end of every distilling period of the true quantity of wash distilled and spirits made in each brewing and distilling period.

94. Distiller to deliver an account of the malt, sugar, and molasses used in every distilling period, verified by declaration.

95. Officer may take samples of wort, wash, spirits, &c. in any distillery.

*As to the Removal of Spirits into the Distillery Store or for Consumption, and the Account to be kept of Spirits in Stock.*

96. No spirits shall be received into a distiller's stock but such as are distilled in his distillery.

97. All spirits distilled during a distilling period to be removed from the spirit store within ten days after the termination of such period.

98. Balance to be struck in the stock account, and allowance made for deficiency occasioned by natural waste.

99. Officer in charge of spirit store to attend daily.

100. Spirits not to be removed from distillery of other strength than herein specified, or in less quantity than nine gallons in any cask, or without permit.

101. Spirits may be sent out of the store in casks, either full or on ullage.

102. Permit not to be granted for the removal of spirits out of distillery, except to warehouse, until collector's receipt for the duty be produced.

103. Distiller's stock account of proof spirits to be kept by the officer.

*Warehousing of Spirits Duty-free, and Regulations relating to Spirits in Warehouse.*

104. Distillers may warehouse spirits without payment of duty, in warehouses provided and entered by them and approved by the commissioners.

105. Regulations as to the casks, and the quantity to be contained therein, and strength of warehoused spirits.

106. Spirits in a distiller's warehouse may be transferred to a purchaser.

107. Penalty for frauds in relation to spirits in warehouse.

108. Commissioners may appoint general warehouses under bond, in which distiller may warehouse British spirits.

100. Distillers and proprietors of warehouses to provide accommodation for officers.

110. Commissioners may revoke their approval of warehouses.

111. Spirits may be deposited in warehouses provided by the commissioners.

112. The removal of spirits to warehouse to be under the regulations of the commissioners.

113. Action not to be maintained on account of spirits destroyed in warehouse by fire, &c.

114. Distiller to give notice of his intention to warehouse spirits. None to be removed into warehouse without a permit.

115. Officer to attend removal of spirits.

116. Officer at the warehouse to take account of and give receipts for spirits warehoused. Such receipt to be delivered by distiller to officer, who is to give credit for the same in the charge against distiller.

117. Warehoused casks to be numbered progressively.

118. Stowage of casks in warehouse to afford easy access.

119. Spirits in warehouse may be vatted, blended, or racked.

120. Casks containing racked or blended spirits to be marked.

121. Proprietor may view and shew his spirits in warehouse.

122. Spirits deposited in a general warehouse may be transferred, on notice from the distiller or dealer, and entered and kept in the name of the purchaser. Spirits not to be delivered out till duty paid.

*As to the Delivery of Spirits out of Warehouse for Consumption, or Exportation, or Ship's Stores, or for Methylation, or to be re-warehoused.*

123. No spirits to be delivered out of warehouse for consumption without payment of duty. On production of collector's certificate of payment, warehouse-keeper to allow the spirits to be removed.

124. Spirits may be delivered out of warehouse for exportation without payment of duty. Notice of intended shipping to be given.

125. Bond to be given by distiller or proprietor of spirits on exportation. On production of collector's certificate, spirits to be delivered with a permit.

126. Commissioners may allow a distiller to give a general bond for the due exportation of spirits.

127. Warehoused spirits may be shipped as stores, or used for methylation, without payment of duty.

128. Days and hours of removal from warehouse.

129. Duty to be paid on deficiency of spirits in warehouse.

130. Warehoused spirits may be removed from one warehouse to another.

131. Distiller or proprietor of spirits removed from one warehouse to another may make fresh entry of the same before being actually deposited.

*Allowances for Deficiencies in Spirits warehoused and on Spirits lost or destroyed.*

132. Allowances for deficiencies of spirits in warehouse.

133. Deficiencies to be allowed on delivery of racked or blended spirits from warehouse.

134. Spirits to be deemed in warehouse during their removal.

135. Table in Schedule (B.) annexed to be used in ascertaining the quantity of spirits in a cask by weighing the same.

136. Duty on spirits or wash, &c. lost or destroyed by fire or other accident to be remitted.

*As to warehousing Spirits in Customs Warehouses for Exportation or Ship's Stores.*

137. Distiller may warehouse spirits for exportation or for ship's stores in customs warehouses.

138. Spirits in a distillery store or deposited in excise warehouses may be removed to customs warehouses.

139. Distiller may add sweetening or colouring matter to spirits in customs warehouse.

140. British spirits re-imported may be deposited in a general warehouse.

141. Rectified or compounded spirits may be deposited in customs warehouses.

142. Strength of rectified or compounded spirits to be deposited in customs warehouses, and regulations as to casks, permits, &c.

143. Rectified or compounded spirits to be entered for warehouse, and officer of customs to give receipt for the same, and transmit a certificate to the collector of excise, who is to pay a drawback of the duty on the spirits.

144. Rectifiers or compounders warehousing spirits may, on giving notice, add sweetening or colouring matter to the same.

145. Rectified or compounded spirits so warehoused may be sent coastwise for exportation, or for ship's stores only.

146. British spirits deposited in a customs warehouse may be used as foreign or colonial.

*As to fraudulent Access to Spirits in Warehouse.*

147. Penalty on distiller, &c. fraudulently opening warehouses, or gaining access to spirits.

*Denominations of British Spirits and Compounds.*

148. Denominations of spirits of different distillations, British compounds, &c. Mixtures manufactured from spirits which have not paid the duty of excise. Proof of spirits being such as described in the permit or certificate to lie on the owner.

*As to Rectifiers and Compounders of Spirits.*

149. Penalty on rectifiers and compounders having in their possession any wort, &c., or distilling the same into low wines or spirits, or receiving spirits without a legal permit.

150. Rectifiers or compounders having fixed pipes, &c. to their stills, not hereby permitted, liable to penalty.

151. Regulations as to the placing of the discharge cock in the body of the still of a rectifier or compounder.

152. Notice to the officer to unlock furnace door of a still of a rectifier or compounder.

153. Directions relative to the officer's attendance for opening the furnace door.

154. Officer to open locks and fastenings for cleaning or repairing utensils.

155. Rectifiers or compounders to charge their stills as herein directed, and work them off within the time herein limited.

156. Officers may take still gauges and samples of liquor; and if they discover wash mixed with low wines, the rectifier is liable to penalty.

157. Rectifiers or compounders to cause the heads of their stills to be taken off so soon as the same shall cease to be worked.

158. Officers to take account of the stocks of rectifiers and compounders as often as they may think fit, and if any excess or deficiency be found, forfeiture and penalty shall be incurred.

159. Spirits produced from stills at work when stocks are taken to be afterwards added.

160. Rectifier or compounder receiving spirits not to break bulk before the officer to whom notice shall be given take an account of the strength and quantity.

161. Rectifiers or compounders to mark the quantity and strength of mixed or compounded spirits on the casks containing the same.

162. At what strength and in what quantities rectifiers and compounders may send out compounded spirits and spirits of wine.

163. Strength of spirits of wine to be 43 per cent. over proof at the least, and to be expressed in the certificate.

*As to Dealers and Retailers.*

164. Dealers and retailers to make entry of premises and utensils.

165. At what strength British spirits may be kept and sent out of stock by dealers or retailers.

166. Casks used by dealers and retailers in stock, or for delivering out spirits, to have the true content marked thereon.

167. Dealers and retailers to mark the true strength and quantity of compounded spirits on their casks.

168. Penalty on retailer not licensed as a dealer sending out spirits to a rectifier, dealer, or retailer, or receiving spirits from another retailer, and on dealer not licensed as a retailer selling less than two gallons of spirits.

169. Licensed dealers taking out an additional license may retail and send out foreign liqueurs in quantities not exceeding a gallon without certificate.

*As to Certificates and Permits for the Removal of Spirits.*

170. Every rectifier, dealer, and retailer to provide a book for entering therein the particulars of spirits received and sent out by him.

171. All spirits sold by rectifiers or dealers, and also (when the quantity exceeds a gallon) by retailers, to be accompanied by a certificate.

172. Penalty on rectifiers, dealers, and retailers for improper use of certificates.

173. Penalty for fraudulently using a certificate for any purpose other than the due removal of spirits.

174. Rectifier, dealer, or retailer not to receive spirits without a permit or certificate, and the same to be cancelled on receipt thereof.

175. Permits and certificates to be preserved, and delivered to the officer.

176. Stock of dealer or retailer may be taken by an officer, and any excess found therein to be forfeited.

177. Distiller, rectifier, dealer, and retailer to assist officer in taking stock.

178. Distiller may not carry on the trade of a dealer at any place within the distance of two miles from his distillery, unless such place be approved by the commissioners.

179. Retailer not to be concerned in any distillery, &c. within two miles of his premises, and no retailer to be licensed in any premises having a private communication with a distillery, &c.

180. No spirits to be purchased except from licensed traders, or at customs or excise sales or warehouses.

181. No spirits to be removed from the stock of a distiller without a permit.

182. Rectifier, compounder, dealer, or retailer not to receive any spirits without a permit or certificate, nor any person to carry the same.

183. No spirits to be sent out, or received into stock, unless the permit or certificate shall truly express the strength. Rectifiers and others to have credit for the quantity expressed in the permit.

184. All spirits exceeding one gallon to be removed by permit or certificate, otherwise penalty and forfeiture.

185. Persons removing spirits in any quantity exceeding one gallon, and not producing a proper permit or certificate, may be arrested and convicted, and on non-payment of the penalty may be imprisoned.

186. Penalty for sending out or receiving spirits without a permit, or for the fraudulent use of permits.

187. If a permit or certificate be not delivered with spirits sold, they shall be forfeited to the buyer, and double the price.

188. Permits and certificates for the removal of spirits to be granted under the regulations of the permit and certificate laws.

*As to Scales, Weights, Measures, and Fastenings to be provided by Excise Traders.*

189. Excise traders to keep sufficient scales, weights, and measures, and aid the officers in using the same. Penalty for providing false scales, weights, or measures, and for practising fraud to prevent a true account being taken.

190. All fastenings (except locks) for the security of warehouses, store-rooms, and utensils, to be provided at the expense of the excise trader. Locks and keys to be provided at the expense of the revenue. Penalty for removing or damaging locks or fastenings.

*Supplying Spirits to be unlawfully retailed, and having in possession Spirits not Duty-paid.*

191. Penalty on persons selling liquors to be unlawfully retailed or consumed by others.

192. Persons knowingly having in possession spirits for which the duties have not been paid to forfeit the same, and treble value.

*Retailing and using Spirits in Gaols.*

193. No license to be granted for retailing spirits within gaols or houses of correction, nor shall spirits be used there, except such as shall be medically prescribed.

194. Justices, upon information that spirits are kept and disposed of in any gaol, &c., may enter and search, and empower any constable to seize the same.

*Hawking Spirits and selling Spirits in unlicensed Places.*

195. Persons hawking or selling spirits in unlicensed places to forfeit the same and a penalty, and may be committed to the house of correction for non-payment.

196. Justice of peace, upon information on oath, may issue warrant to apprehend persons hawking spirits.

197. Any person may detain a hawker of spirits, and give notice to a peace officer, who is to carry the offender before a justice.

*As to the Acquittal and Record of Informers.*

198. Either of the offending parties informing against the other shall be acquitted of his own penalty.

199. Informers may be rewarded by the commissioners, if the penalty is not paid, and cannot be levied, or if the offender be sent to prison.

*As to Persons opposing the Law, and Peace Officers refusing to aid in executing it.*

200. Armed persons opposing the law, or violently resisting offenders, or assaulting officers, informers, or witnesses, guilty of felony, and to be kept in penal servitude for seven years.

201. Penalty on constable or other peace officer not assisting in executing this act.

*As to the Repeal of existing Acts, and the Commencement and Operation of the Act.*

202. Acts repealed.

203. Commencement and operation of the act.

**CAP. CXV.**

An Act to simplify and amend the Practice as to the Entry of Satisfaction on Crown Debts and on Judgments.

[28th August, 1860.]

Sect. 1. *Provisions of sects. 195, 196, and 197 of the 16 & 17 Vict. c. 107, extended to all bonds to the Crown.*

*2. As to entry of satisfaction on judgments.*

Sect. 1. All the powers, provisions, and regulations concerning bonds and other securities relating to the customs, contained in sects. 195, 196, and 197 of the act passed in the session of Parliament holden in the 16 & 17 Vict. c. 107, shall, mutatis mutandis, be deemed to extend and shall be applied to all bonds and other securities entered into or given to her Majesty, her heirs or successors: provided always, that in every case in which, under the provisions of the said sections, any certificate is required to be signed, or any other matter authorised to be done, by the Commissioners of Customs, or any number of them, any such certificate or matter in relation to any bond or other security concerning or incident to any public department shall respectively be signed and done by the respective commissioners or other principal officers of such department, or any two of them respectively; or if there shall be only one such commissioner or principal officer, then by him, as the case may be; or if there shall be no such commissioner or other principal officer then by the Commissioners of her Majesty's Treasury, or any two of them.

2. The senior master of the Court of Common Pleas at Westminster may, upon the filing with him of an acknowledgment in the form or to the effect following, be at liberty to enter a satisfaction or discharge as to any registered judgment, pending suit, lis pendens, decree, order, rule, amercement, or rent-charge, or writ of execution, and such officer shall be entitled, for any such registry of satisfaction or discharge, to the sum of 2s. 6d., and no more; and such senior master may issue certificates of the entry of any satisfaction or discharge, and may charge the sum of 1s. for every such certificate.

*Form of Acknowledgment of Satisfaction.*

Satisfaction is acknowledged between A. B. and C. D., as to a ——— dated the ——— day of ———, 18—, for the sum of £——, a memorandum of which said ——— was left with the senior master of the Court of Common Pleas at Westminster, on the ——— day of ———, 18—, to affect the estate of ———, and [if so] on the writ of execution thereon, dated the ——— day of ———, 18—, a memorandum of which was left with the said master on the ——— day of ———, 18—.

And — (or the executor or administrator of) do hereby expressly nominate and appoint —, of —, attorney-at-law, to witness and attest the execution of this acknowledgment of satisfaction.

Signed by the said —, in the presence of me, the undersigned —, one of the attorneys of her Majesty's Court of — at Westminster; and I hereby declare myself to be the attorney for and on behalf of the said —, expressly named by —, and attending at — request to inform him of the nature and effect of this acknowledgment of satisfaction, (which I accordingly did before the same was signed by —); and I also declare that I subscribe my name as witness hereto, as such attorney.

A. B., the above-named —, [or F. G., executor or administrator of], the — day of —, 18—.

## CAP. CXVI.

An Act to amend the Law relating to the Election, Duties, and Payment of County Coroners.

[28th August, 1860.]

Sect. 1. *Provisions of the 7 & 8 Vict. c. 92, extended to all counties, although not divided into districts for the purposes of such act.*

2. *Polling at elections for coroners to continue for one day only.*

3. *Provisions as to remuneration of coroners by fees repealed.*

4. *County coroners to be paid by salary.*

5. *If coroner refuse to hold inquest, application may be made to a judge for a rule to shew cause.*

6. *Power to remove coroner.*

7. *County of Chester to be henceforth subject to the general law.*

8. *Interpretation of "county."*

9. *Saving rights of the Crown, &c.*

10. *Extent of acts.*

Sect. 1. From and after the passing of this act all the provisions of the act 7 & 8 Vict. c. 92, shall, so far as the same may be applicable to the election of coroners, be extended and be construed to extend and apply to all counties, notwithstanding the same may not have been divided into two or more districts for the purposes of such act; and every election of a coroner for a county not so divided as aforesaid, which may have taken place previous to the passing of this act, shall be and the same is hereby declared to be as legal and valid, to all intents and purposes whatsoever, as if such election had taken place subsequent to the passing of this act.

2. From and after the passing of this act so much of the act 7 & 8 Vict. c. 92, as authorises the polling at elections for coroners to continue for two days, shall be and the same is hereby repealed, and thenceforth such polling shall continue for one day only.

3. From and after the 31st December, 1860, so much of any act as provides for the remuneration of county coroners by fees, mileage, and allowances, shall be and the same is hereby repealed.

4. On and after the 1st January, 1861, there shall be paid to every county coroner, in lieu of the fees, mileage, and allowances which if this act had not been passed he would have been entitled to receive, such an annual salary as shall be agreed upon between him and the justices in general or quarter sessions assembled for the county for which, or for some portion of which, such coroner shall act, such salary, in the case of any person holding the office of county coroner at the time of the passing of this act, not being less than the average amount of the fees, mileage, and allowances actually received by such coroner and his predecessors, if any, for the five years immediately preceding the 31st December, 1860; and such salary shall be paid quarterly to such coroner by the treasurer of the county out of the county rate; and whenever, from death, removal, or any other cause whatever, any county coroner shall not be entitled to a salary for the whole of a quarter, a proportionate part of the salary shall be paid to him, or, in case of his death, to his personal representatives: provided always, that in case any such justices and any such county coroner as aforesaid shall be

unable to agree as to the amount of the salary to be paid to such coroner, it shall be lawful for her Majesty's Principal Secretary of State for the Home Department, and he is required, upon the application of such coroner, to fix and determine the amount of such salary, having regard to such average as aforesaid, also the average number of inquests held by any such coroner in the preceding five years as aforesaid, and also to the special circumstances of each case, and the general scale of salaries of county coroners: provided also, that after the lapse of every successive period of five years, it shall be lawful for any such justices and such coroner as aforesaid to revise, and thereby increase or diminish, any such salary, having regard to the average number of inquests held by any such coroner in the five years immediately preceding, and subject, in case of their disagreement, to such appeal to the Home Secretary as before mentioned: provided always, that nothing herein contained shall in any manner take away, alter, or deprive any such coroner of the right to be repaid out of the county rate the expenses and disbursements which may have been paid or made by him on the holding of any inquest as provided by the act of the 1 Vict. c. 68.

5. If any coroner shall refuse or neglect to hold an inquest in any case when such inquest ought to be held, it shall be lawful for her Majesty's Attorney-General to apply to the Court of Queen's Bench, or, during vacation, to a judge of any one of her Majesty's superior courts of law at Westminster, for a rule calling on such coroner to shew cause why he should not hold such inquest; and if, after due service of such rule, good cause shall not be shewn against it, it shall be lawful for the judge to make such rule absolute, with or without payment of costs, as to such judge shall seem meet; and the coroner, upon being served with such rule absolute, shall obey the same, and hold such inquest, upon pain of being liable to an attachment in case of refusal or neglect.

6. It shall be lawful for the Lord Chancellor, if he shall think fit, to remove, for inability or misbehaviour in his office, any such coroner already elected or appointed, or hereafter to be elected or appointed.

7. From and after the passing of this act, so much of the public general act, 7 & 8 Vict. c. 92, as exempts the county of Chester from the provisions of that act, and also the local and personal act, 3 Vict. c. lxxxvii, authorising the appointment of additional coroners for the county palatine of Chester, (except the 21st section of that act, so far as regards the head coroners now in office for the three divisions into which that county is now divided), and also so much of the act of the 33 Hen. 8, c. 13, as relates to coroners for the shire of Chester, are hereby repealed, and all the provisions of this act, and of the public general act, 7 & 8 Vict. c. 92, (except the said exemption), and all other public general acts, laws, statutes, and usages relating to coroners for counties, from time to time in force, shall, from and after the passing of this act, extend and apply to the county of Chester and the coroners for the divisions into which that county is now or hereafter may be divided: provided always, that, notwithstanding such repeal, the present divisions of the county of Chester under the powers of the said local and personal act, 3 Vict. c. lxxxvii, shall continue, unless and until that county shall be divided into other districts under the powers of the said public general act, 7 & 8 Vict. c. 92, and the said present divisions shall be deemed to have been made under the last-mentioned act, without prejudice to the provisions contained in the 21st section of the said local and personal act, so far as regards the present head coroners of the said county: provided also, that such repeal shall not invalidate or affect the election of the present head coroners for the said county, but (subject to any future alteration or division of their respective divisions or districts under the public general act, 7 & 8 Vict. c. 92) they shall continue in office as if such repeal had not taken place.

8. The word "county," in and throughout this act, shall be deemed and taken to include all counties, ridings, divisions, hundreds, wards, liberties, and other places, the coroners whereof are paid out of the county rates.

9. Nothing herein contained shall be construed to abridge or affect the royal prerogative, or any right vested in any person or persons, to appoint, by patent or by election, or otherwise, any coroner for any city, borough, liberty, franchise, manor, or place, or the authority of the Lord Chancellor, or to issue a writ de coronatore eligendo.

10. The said act of the 7 & 8 Vict. c. 92, (as varied by this act), and this act, shall extend only to that part of the United Kingdom called England and Wales.

#### CAP. CXVII.

An Act to confer Powers on the Commissioners of Her Majesty's Works and Public Buildings to acquire certain Property in Edinburgh for the Erection of an Industrial Museum for Scotland. [28th August, 1860.]

#### CAP. CXVIII.

An Act to confirm certain Provisional Orders under the Local Government Act, 1858, relating to the Districts of Nottingham, Sunderland, Hastings, Reading, Chatham, Dartmouth, Tunbridge Wells, Sheerness, Sandgate, Wilton, Bridgnorth, and Dorchester.

[28th August, 1860.]

#### CAP. CXIX.

An Act to amend the Law relating to Weights and Measures in Ireland. [28th August, 1860.]

- Sect. 1. Short title.
2. Interpretation of terms.
3. So much of sect. 9 of the 5 & 6 Will. 4, c. 63, as requires grand juries to appoint inspectors of weights and measures repealed.
4. Sect. 18 of the 14 & 15 Vict. c. 92, repealed.
5. Certain head and other constables to be ex officio inspectors of weights and measures.
6. As to the custody of copies of imperial standard weights and measures.
7. Grand juries in counties and town councils in boroughs to provide sub-standard weights and measures.
8. Sub-standard weights and measures to be deposited with head or other constables.
9. As to supply of sub-standard weights and measures to sub-inspectors.
10. As to weights to be used until imperial weights, &c. shall be supplied.
11. Grand jury may present for expenses of county.
12. Town council may raise amount of expenses by way of rate on boroughs.
13. Judge of assize to order copies of standards, &c. in counties in Ireland when it has not been done by grand juries.
14. Chairman of quarter sessions to order copies of standard weights and measures in boroughs within the county, in case it has not been done by town council.
15. Imperial standards of weights and measures, when to be adjusted.
16. Power to inspectors to inspect beams, scales, &c. in possession of persons selling in the public streets.
17. Power to destroy false weights and measures.
18. Penalty for certain offences against the provisions of this act.
19. Penalty for making and selling false beams and scales, or weights and measures.
20. Inspectors authorised to stamp measures, although made partly of glass, &c.
21. Proceedings under this act for recovery of penalties, &c.
22. Provisions of the 5 & 6 Will. 4, c. 63, (save such parts as are hereby repealed), incorporated in this act.

#### CAP. CXX.

An Act to amend the Laws relating to the Ballots for the Militia in England, and to suspend the making of Lists and Ballots for the Militia of the United Kingdom.

[28th August, 1860.]

- Sect. 1. General meetings of Lieutenancy may alter the existing subdivisions.
2. Quota of subdivisions to be fixed by Orders in Council.
3. Secretary at War to apportion deficiency among subdivisions, and certify numbers to be raised.
4. Regard to be had in apportionment to the number of men actually serving who, when inrolled, were resident in each subdivision, &c.
5. Lord Lieutenant to appoint places for holding subdivision meetings.

6. As to the holding of subdivision meetings.
7. Notices to be given to householders.
8. Penalty on householder not making return.
9. List to be made out from returns.
10. Vestry meeting to be called in each parish to determine as to providing volunteers, under sect. 42 of the 42 Geo. 3, c. 90.
11. Lists to be returned to subdivision meetings, and deputy lieutenants to amend lists, and appoint meetings for the ballot.
12. Penalty for inducing overseer to make false returns, or refusing to tell name, &c.
13. Deputy lieutenants may require the attendance of overseers, constables, &c.
14. At the said subdivision meeting for ballot, twice the number of men required to be chosen by ballot, and another meeting appointed.
15. At such meeting claims of exemption to be heard.
16. Lists to be corrected, and the number of men required to be sworn and inrolled.
17. Provision for case of list of balloted men being exhausted before the requisite number obtained.
18. Supply of vacancies happening between the annual ballots from lists of balloted men.
19. Men sworn to attend at head-quarters.
20. Balloted man may produce a substitute.
21. Consequences of not appearing and being sworn.
22. Consequences of refusal to be examined.
23. Sects. 27 and 33 of the 42 Geo. 3, c. 90, as to Quakers, to apply to this act.
24. Forms to be furnished by Secretary of State, and expenses incurred to be defrayed out of monies provided by Parliament.
25. Provision consequential on alteration of quotas.
26. Provisions hereinbefore contained as to the ballot to apply to militia raised in England only; and certain enactments herein named to be repealed.
27. Meetings relating to the militia of the United Kingdom, and ballots for such militia, suspended.
28. Proceedings may be had during such suspension by Order in Council.
29. Not to extend to prevent the holding of certain meetings relating to the militia.

#### CAP. CXXI.

An Act to amend an Act passed in the Sixth Year of Her Majesty Queen Victoria, intituled "An Act to enable Her Majesty to provide for the Government of her Settlements on the Coast of Africa and in the Falkland Islands." [28th August, 1860.]

Sect. 1. *Provisions of stat. 6 & 7 Vict. c. 13, extended to certain territories.*

2. *Orders of Council as to jurisdiction of supreme courts in certain possessions abroad.*

- Sect. 1. The provisions of the said act shall extend to all possessions of her Majesty not having been acquired by cession or conquest, nor (except in virtue of this act) being within the jurisdiction of the legislative authority of any of her Majesty's possessions abroad.
2. It shall be lawful for her Majesty, by any Order or Orders in Council, to authorise and require the supreme or other principal court of judicature in any of her possessions, to be specified in such Order, (subject always to such conditions and limitations as in the said Order or Orders shall be mentioned), to take cognisance of all or any suits, actions, or prosecutions for treason or felony, which may arise in respect of any act or matter occurring within any possession of her Majesty to which this or the said hereinbefore recited act shall extend, and by such Order or Orders to make regulations respecting the attendance of witnesses in any such suit, action, or prosecution, and the mode of enforcing such attendance, and respecting the custody and conveyance of any person charged with the commission of any such crime within such last-mentioned possessions, and respecting such other matters as may be requisite for the due trial of such person by such court as aforesaid; and every such Order shall be laid before both Houses of Parliament as soon as conveniently may be after the making thereof.

CAP. CXXII.

An Act to enable the Legislatures of Her Majesty's Possessions abroad to make Enactments similar to the Enactment of the Act 9 Geo. 4, c. 31, s. 8. [28th August, 1860.]

Whereas, by an act passed in the 9 Geo. 4, [c. 31], intituled "An Act for consolidating and amending the Statutes in England relating to Offences against the Person," it was enacted, (amongst other things), that where any person, being feloniously stricken, poisoned, or otherwise hurt at any place in England, should die of such stroke, poisoning, or hurt, upon the sea, or at any place out of England, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory before the fact to murder, or after the fact to murder or manslaughter, might be dealt with, inquired for, tried, determined, and punished in the country or place in England in which such stroke, poisoning, or hurt should happen, in the same manner in all respects as if such offence had been wholly committed in that country or place: and whereas it may be desirable that provisions similar or analogous to the above-recited provisions should be made with respect to offences committed within her Majesty's possessions abroad: and whereas doubts are entertained whether it is competent to the Legislature of any such possession to make such provision: be it therefore enacted &c. as follows:—

Sect. 1. It shall be lawful for the Legislature of any of her Majesty's possessions abroad to enact, by any law or ordinance, to be by them made in the usual manner, that where any person, being feloniously stricken, poisoned, or otherwise hurt at any place within the limits of such possession, shall die of such stroke, poisoning, or hurt, upon the sea, or at any place out of the limits of such possession, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory before the fact to murder, or after the fact to murder or manslaughter, may be dealt with, inquired of, tried, determined, and punished in the possession within the limits of which such stroke, poisoning, or hurt shall happen, in the same manner in all respects as if such offence had been wholly committed within the limits of such possession, or such Legislature may enact, by any such law or ordinance to be made as aforesaid, to the like effect.

CAP. CXXIII.

An Act to amend the Laws relating to the Government of the Navy. [28th August, 1860.]

PART I.—ARTICLES OF WAR.

*Public Worship.*

Sect. 1. Public worship to be performed.

*Misconduct in the Presence of the Enemy.*

2. Penalty for misconduct in action.
3. Penalty for not pursuing the enemy, and of not assisting a friend in view.
4. Penalty for delaying or discouraging the service, or deserting his post, &c.
5. Penalty for misconduct of subordinate officers and men in action.

*Communications with the Enemy.*

6. Penalty for spies.
7. Penalty for corresponding &c. with the enemy.
8. Penalty for improper communication with the enemy.

*Neglect of Duty.*

9. Penalty for abandoning post, &c.

*Mutiny.*

10. Penalty for mutiny with violence.
11. Penalty for mutiny not accompanied by acts of violence.
12. Penalty for inciting to mutiny.
13. Penalty for civilians endeavouring to seduce from allegiance.
14. Penalty for making mutinous assemblies or uttering seditious words.
15. Penalty for concealing any traitorous or mutinous practice, design, or words.
16. Penalty for striking or offering to strike superior officer.

*Insubordination.*

17. Penalty for disobedience or using threatening language to superior officer.
18. Penalty for quarrelling &c., or using reproachful speech or gestures.

*Desertion and Absence without Leave.*

19. Penalty for desertion.
20. Penalty for inducing any person to desert.
21. Penalty for entertaining a deserter.
22. Penalty for absence without leave.

*Miscellaneous Offences.*

23. Penalty for profane swearing and other immoralities.
24. Penalty on officer for cruelty or oppression.
25. Penalty for suffering ships to be improperly lost.
26. Penalty for not taking care of and defending ships under convoy.
27. Master of merchant vessel to obey orders of convoying officer.
28. Penalty for taking any goods on board other than for the use of the vessel, except gold, silver, jewels, &c.
29. Penalty for embezzling public stores.
30. Penalty for burning any magazine or vessel, &c. not belonging to an enemy.
31. Penalty for making or signing false musters.
32. Penalty for misconduct in hospital.
33. Penalty for endeavouring to stir up any disturbance on account of unwholesomeness of the victuals or other just grounds.
34. Penalty for offences against naval discipline not particularly mentioned.
35. Penalty for not sending to the Court of Admiralty all papers found aboard prize ships.
36. Penalty for taking money or other effects out of any prize before the same shall be condemned.
37. Penalty for stripping or ill-using persons taken on board a prize.

*Offences punishable by ordinary Law.*

38. Penalty for offences punishable by ordinary law.
39. Offences, when punishable.

PART II.—GENERAL PROVISIONS.

40. Power of court-martial to find intent with which offence committed.
41. Power of court-martial to find prisoner guilty of lesser offence on charge of greater.
42. Rebels and mutineers to be deemed enemies.
43. Power to arrest offenders.
44. Penalty for not assisting in detection of prisoners.

PART III.—REGULATIONS AS TO PUNISHMENTS.

45. Punishments.
46. Regulations as to punishments.
47. Limitation of time as to trials.
48. Scale of punishment.
49. Authorities having power to try offences.

PART IV.—COURTS-MARTIAL.

*Constitution of Courts-martial.*

50. Constitution of courts-martial.

*Proceedings of Courts-martial.*

51. Sittings of courts-martial.
52. Appointment of officiating judge-advocate.
53. Proceedings at trial.
54. Oaths to be administered to members of courts-martial.
55. Oath to be administered to judge-advocate, &c.
56. Summoning witnesses.
57. Penalty on persons giving false evidence.
58. Where persons are insane at the time of offence or trial.
59. Report of proceedings of courts-martial.

PART V.—PENAL SERVITUDE AND PRISONS.

*Penal Servitude.*

60. Sentence of penal servitude.
61. Disposal of offender after sentence of penal servitude.
62. Subsistence of offender.
63. Imprisonment of offender already under sentence for previous offence.



*Prisons.*

64. Term and place of imprisonment.
65. Place of imprisonment may be changed &c.
66. Expenses of removal or subsistence of prisoners.
67. Proviso for discharge or removal of prisoners.
68. Proviso as to time of detention in naval custody.
69. In case of insanity prisoners to be removed to some lunatic asylum.
70. Admiralty may set apart buildings and ships as naval prisons.
71. Penalties on aiding escape or attempt to escape of prisoners, and on breach of prison regulations.
72. Penalty as regards gaolers, &c.
73. Pay of offenders to be stopped during imprisonment, &c.

## PART VI.—SUPPLEMENTAL PROVISIONS.

74. Short title of act.
75. Commencement of act.
76. Definition clause—"Admiralty:" "Officer:" "Superior officer."
77. Persons subject to this act.
78. Land forces embarked as passengers.
79. Other persons embarked as passengers.
80. Crews of ships lost or destroyed.
81. All the officers and crew of lost ship may be tried by one court.
82. Or by separate courts.
83. For subsequent offence, separate court.
84. Pay of crews of ships lost or taken.
85. When ship of senior officer is lost he may dispose of officers and crew of lost ship.

## PART VII.—REPEAL OF ACTS, AND SAVING CLAUSE.

86. Repeal of acts and parts of acts.
87. Trial of offences against repealed acts.
88. Reservation of power of Admiralty.
89. Act not to supersede authority of ordinary courts.

## CAP. CXXIV.

An Act further to amend the Acts relating to the Ecclesiastical Commissioners, and the Act concerning the Management of Episcopal and Capitular Estates in England.  
[28th August, 1860.]

- Sect. 1. *Sect. 17 of the 13 & 14 Vict. c. 94, repealed.*
2. *The lands of each see to vest in the commissioners on the next avoidance.*
  3. *Lands sufficient to afford the statutory income to be secured to each see.*
  4. *Like arrangement may be made before next avoidance, on request of the bishop.*
  5. *Arrangements to be revised on avoidance.*
  6. *Endowments to be in lieu of the fixed income.*
  7. *Arrangements, how to be made.*
  8. *Lands assigned as endowments, how to be leased.*
  9. *Estates committee to see that property assigned as endowment is kept in proper condition.*
  10. *Provision for the improvement of lands.*
  11. *Estates committee, where required, to manage the lands assigned.*
  12. *Sect. 67 of the 3 & 4 Vict. c. 113, extended to all lands.*
  13. *Provisions concerning local claims to apply to tithes and lands of an ecclesiastical corporation having a revenue exceeding its statutory income.*
  14. *Preference may be given to places where contribution is made in aid of grant.*
  15. *In mining districts commissioners may make grants for cure of souls.*
  16. *Power to corporations, with approval of the Church Estates Commissioners, to sell lands in possession, for facilitating negotiations with lessees.*
  17. *Small portions of land under leases usually renewed for the purposes of schools may be conveyed absolutely without payment.*
  18. *When ecclesiastical corporations have been accustomed to renew leases, lands may be conveyed by such corporations without consideration.*
  19. *When ecclesiastical corporation has been accustomed to reserve rent, the whole estates may be conveyed to incumbent without consideration.*

20. *Trustees and others having power to raise money for renewals may raise money for enfranchisements.*
21. *In estimating the value of twenty-one years' leases, an extension to the 1st August, 1884, to be allowed.*
22. *In estimating the value of mining leases, an extension to 1884 to be allowed.*
23. *Differences between mining lessees and lessors to be referred to arbitration.*
24. *Upon treaty for sale, &c. either party may require reference to arbitration.*
25. *Rules to be observed in valuation as to rate of interest, &c.*
26. *Provision as to under-lessees bound to contribute to expenses of renewals.*
27. *Under-lessees having right of renewal to enjoy benefits of this act for protection of lessees.*
28. *Extending powers of apportionment of rent under sect. 2 of the 14 & 15 Vict. c. 104, and sect. 2 of the 17 & 18 Vict. c. 116, on surrender, sale, or exchange of part of lands comprised in lease held under the Ecclesiastical Commissioners.*
29. *Sums of money agreed to be paid by Ecclesiastical Commissioners may, on failure of lessee or grantee to make marketable title to or assurance of land, be paid into the Bank of England.*
30. *Provision for release of rent-charge granted to commissioners by way of endowment of church or chapel.*
31. *Rights and obligations under special acts preserved.*
32. *Power of partition of estates held under special acts, &c.*
33. *Substitution of titles on exchange or partition.*
34. *Providing for the transfer of the Paddington estate.*
35. *Power to trustees and persons having interests to charge enfranchisement monies on the lands enfranchised &c.*
36. *Wherever estate under such lease or grant is vested in trustees, and monies are vested in the same trustees, they may raise out of such monies sufficient for renewal of lease, &c.*
37. *Lands in the lease, or other lands settled to like uses, may be sold or mortgaged to raise money for purchase of reversion, under direction of the Court of Chancery.*
38. *Trustees empowered to sell estates held under lease.*
39. *Persons empowered to raise money for enfranchisement may give lands in exchange for reversion.*
40. *Compensation to officers of ecclesiastical corporations.*
41. *Provision as to arbitration.*
42. *Extension of patronage exchange powers.*
43. *Treasurer's receipts to be full discharges.*
44. *Not to affect Christ Church, Oxford, or collegiate church at Manchester.*

Sect. 1. *Sect. 17 of the act of the session holden in the 13 & 14 Vict. c. 94, directing the mode of securing the annual income of archbishops and bishops, shall, as respects every archbishop and bishop who shall succeed to a see after the passing of this act, be repealed.*

2. *Upon the first avoidance of the see of any archbishop or bishop in England after the passing of this act, all the lands, hereditaments, and emoluments of or belonging to such see (except all rights of patronage or presentation, and the residences of the archbishop or bishop, and such lands necessary for the enjoyment of such residences as shall be attached thereto by any scheme sanctioned by Order in Council) shall become vested absolutely in the Ecclesiastical Commissioners for England, for the purposes and subject to the provisions applicable to other hereditaments vested in the said commissioners.*

3. *After the lands of a see have become vested in the commissioners as aforesaid, an arrangement shall be made as soon as conveniently may be, and with all reasonable dispatch, for assigning to the archbishop or bishop of such see and his successors, as an endowment for the see, such of the lands and hereditaments then vested in the Ecclesiastical Commissioners for England as in the judgment of the estates committee of the said Ecclesiastical Commissioners, and subject to the approbation of such archbishop or bishop, may be*

deemed convenient to be held as such endowment, and will secure, as nearly as may be, after deducting costs of management, a net annual income equal to that named for the archbishop or bishop of the see by any act of Parliament or Order in Council then in force, and no more; and in the meantime, until such endowment is so assigned, the Ecclesiastical Commissioners shall pay to the archbishop or bishop of the see the annual income named for him as aforesaid, at the times at which the same would have been payable if this act had not been passed.

4. In case any archbishop or bishop who may have succeeded on an avoidance happening before the passing of this act, and having an income named as aforesaid, signify his willingness to accept an endowment for his see in lands and hereditaments, in lieu of his income, it shall be lawful to make the like arrangement for that purpose as might have been made if the lands of the see had become vested in the commissioners as aforesaid; and upon such arrangement being made, all the lands, hereditaments, and emoluments of or belonging to the see, except such as may be assigned under such arrangement, and such rights of patronage or presentation, and residences as aforesaid, shall become vested absolutely in the said Ecclesiastical Commissioners.

5. On the avoidance from time to time of any see, after the assignment of an endowment for the same, the estates committee of the Ecclesiastical Commissioners may, if they shall think fit, revise the arrangement in force in relation to such endowment, and for that purpose inquire into the state and productiveness of such endowment; and if such endowment, in the judgment of the committee, will secure a net annual income exceeding that named for the archbishop or bishop as aforesaid, or will not secure the full amount of such annual income, such committee may report thereon to the said Ecclesiastical Commissioners, and the said commissioners shall, if they think fit, make an arrangement by vesting part of the lands and hereditaments constituting such endowment in the Ecclesiastical Commissioners, or by assigning lands and hereditaments by way of addition to such endowment, or by means of annual or other payments to or by the Ecclesiastical Commissioners, as the case may require, which may secure, in the judgment of the said committee, to the archbishop or bishop who may succeed upon that avoidance, the net annual income so named, or as near thereto as circumstances will allow: provided always, that if a difference of opinion as to the value or sufficiency of the estates which such committee may propose to leave or to assign to any see shall arise between the archbishop or bishop thereof and the said committee, such difference shall be settled by arbitration before such arrangement as is last mentioned shall be made.

6. When the arrangement is completed under this act for the endowment of a see, the lands and hereditaments thereby assigned shall be the endowment of the see, and shall be taken in lieu of the income intended to be secured thereby.

7. All arrangements for the purposes of this act shall be made by the authority and in the manner by and in which arrangements for carrying into effect the recommendations recited in the act of the session holden in the 6 & 7 Will. 4, c. 77, may now be made.

8. No lands assigned or secured as the endowment of any see under this act shall be granted by the archbishop or bishop otherwise than from year to year, or for a term of years in possession not exceeding twenty-one years, at the best annual rent that can be reasonably gotten without fine, the lessee not to be made punishable for waste, or exempted from liability in respect of waste; and so that in every such lease such or the like covenants, conditions, and reservations be entered into, reserved, or contained, with or for the benefit of the archbishop or bishop and his successors, as under sect. 1 of the act passed in the session holden in the 5 & 6 Vict. c. 27, (for better enabling the incumbents of ecclesiastical benefices to demise the lands belonging to their benefices on farming leases), are to be entered into, reserved, or contained in a lease granted under that enactment to or for the benefit of the incumbent and his successors, or as near thereto as the circumstances of the case will permit; but where, under the said section of the last-mentioned act, any consents are provided for or required, the consent only of the archbishop or bishop for the time being shall be requisite: provided always, that it shall be lawful for the archbishop or bishop, with the approval of the estates committee of the

Ecclesiastical Commissioners, testified under the common seal of the said commissioners, which the said committee are hereby empowered to affix to any lease for this purpose, from time to time to grant mining or building or other leases of any such lands, for such periods, for such considerations, upon such terms, and generally in such manner as such committee under the circumstances of each case may think fit, and it shall be lawful for such committee to require that any portion of the rent reserved on any such lease shall be payable to the said Ecclesiastical Commissioners.

9. The estates committee shall cause the property assigned as an endowment for any see as aforesaid to be inspected so often as they think fit, and shall cause notice in writing of all dilapidations or want of repair found on such inspection, and of the repairs or works necessary for remedying the same, to be given to the archbishop or bishop of such see, and such archbishop or bishop shall forthwith do or cause to be done, at his or their own expense, or at the expense of his or their lessees or tenants, (as the case may require), the repairs or works mentioned in such notice; and if any difference arise between such archbishop or bishop and the estates committee with regard to the condition of such property, or the repairs or works required by the estates committee, the matter in difference shall be referred to arbitration as hereinafter provided.

10. It shall be lawful for the estates committee, upon the application of any archbishop or bishop, to undertake or authorise any works of permanent improvement which such committee may think advisable, on any lands assigned by way of endowment to such archbishop or bishop; and the Ecclesiastical Commissioners may advance out of the common fund the money which may be required for the purpose of such works, and the money so advanced shall be repaid, with such interest, and at such times, and until repaid shall be charged on such of the said lands, as may be agreed upon by the said committee and the said archbishop or bishop, and his or their tenants interested in such improvements.

11. The estates committee shall, when required by any archbishop or bishop to whom lands may have been assigned as an endowment under this act, undertake the management of such lands, and receive the rents and profits thereof during the incumbency of the archbishop or bishop; and in every such case as aforesaid the estates committee, during their management, may grant all such leases as might have been granted by such archbishop or bishop if the lands had continued under his or their management, and may, with the approval of such archbishop or bishop, grant such other leases as might have been granted by him or them, with the approval of the estates committee; and the commissioners shall, during the time such lands are under the management of the said estates committee, pay to such archbishop or bishop the annual income to secure which the lands may have been assigned.

12. And whereas, by the act of the session holden in the 3 & 4 Vict. c. 113, s. 67, it is provided, that, by payments or investments made out of the common fund of the Ecclesiastical Commissioners, or by means of an actual conveyance and assignment of lands, tithes, or other hereditaments, vested or to be vested in them as therein mentioned, or of a portion thereof, additional provision shall be made by the authority therein provided for the cure of souls in parishes where such assistance is most required: provided always, that in making any such additional provision out of any tithes, or any lands or other hereditaments allotted or assigned in lieu of tithes, so vested or to be vested in the said commissioners, or out of the rents and profits thereof, due consideration shall be had of the wants and circumstances of the places in which such tithes arise or have heretofore arisen: in making additional provision for the cure of souls, under the recited enactment, out of any lands or hereditaments whatsoever now vested or hereafter to be vested in the said commissioners, (except lands or hereditaments which may have been or may hereafter be bought or taken in exchange by the commissioners, or any estate or interest in lands or hereditaments so bought or taken in exchange during the continuance of such estate or interest), or out of the rent and profits thereof, (except as aforesaid), due consideration shall be had of the wants and circumstances of the places in which such lands or hereditaments may be situate or arise; and the same rule shall also be applicable, in case the commissioners shall see fit, in favour of places in which lands or hereditaments now vested or heretofore vested in the commissioners

are situated, from which the commissioners have heretofore derived any income.

13. Where any ecclesiastical corporation sole is in the receipt of an income fixed by act of Parliament, and the estates of such corporation yield an annual income greater than the income so fixed, it shall be incumbent on the Ecclesiastical Commissioners to make, out of any tithes, lands, or hereditaments whatsoever from which such annual income arises, or out of the rents and profits thereof, such provision as may seem to them needful for the cure of souls in the parish or place in which such tithes, lands, or hereditaments are situate or arise, in the same manner and to the same extent in and to which such provision might be made if the said tithes, lands, or hereditaments were actually vested in the commissioners.

14. In making additional provision for the cure of souls, under sect. 67 of the said act of the 3 & 4 Vict., preference may be given, if the said commissioners see fit, to those places in respect of which contributions from other sources are made in aid of grants out of the common fund, but this enactment shall not prejudice the proviso at the end of the said section, or the last two preceding sections of this act.

15. In districts in which large masses of population are collected for the purpose of working mines, it shall be lawful for the said commissioners, by resolution of a general meeting, from time to time to make grants to meet benefactions for the purpose of making temporary provision for the cure of souls.

16. Where it appears to the Church Estates Commissioners that inconvenience is occasioned in the negotiations between any ecclesiastical corporation, sole or aggregate, and its lessees, (in relation to property which it is now authorised to dispose of), by reason of its disability to sell or exchange intermixed or other lands held by such corporation in possession, or for some other estate which it is not now authorised to dispose of, it shall be lawful for such ecclesiastical corporation, with the approval in writing of the said Church Estates Commissioners, to sell any such lands (whether of freehold or copyhold or customary tenure), or to exchange any such lands for other lands, or any estate or interest therein; and all the provisions of the act of the session holden in the 14 & 15 Vict. c. 104, as amended by the act of the session holden in the 17 & 18 Vict. c. 116, and this act, authorising the receiving or paying of money by way of equality of exchange, and concerning the payment, application, and investment of any money payable to or for the benefit of any such corporation on any such sale, exchange, or enfranchisement as is mentioned in the said act of the 14 & 15 Vict., and all other the provisions of the said acts in anywise applicable for effectuating any such sale, exchange, or enfranchisement, or in consequence thereof, shall, so far as the nature of the case may require, extend and be applicable to and in consequence of any sale or exchange authorised by this act.

17. Where it appears to the Church Estates Commissioners that any such ecclesiastical corporation has been accustomed to renew, without payment of any fine, or for a nominal fine, the lease of any lands used for the purposes of a school, or the support or maintenance thereof, it shall be lawful for such corporation, with the approval in writing of the Church Estates Commissioners, or where the lands have become vested in the Ecclesiastical Commissioners, for such commissioners, to convey to the trustees or other persons to whom a renewal of such lease might have been granted, in trust for the purposes of such school, all or any part of such lands, for the whole estate of such corporation therein, without requiring the payment of any consideration for the same; and every conveyance in pursuance of this provision shall be made and confirmed as provided by sect. 5 of the 14 & 15 Vict. with reference to such conveyances as therein mentioned.

18. When any ecclesiastical corporation, previous to the passing of this act, has been accustomed to grant or renew, without payment of any fine, or for a nominal fine, the lease of any lands, tenements, tithe rent-charges, or other hereditaments, for the endowment, either in whole or part, of the incumbent of any parish or chapel, the whole estate of such ecclesiastical corporation in such lands, tenements, tithe rent-charges, or other hereditaments, heretofore held by such lease, may, with the consent of the Ecclesiastical Commissioners, under their common seal, be lawfully conveyed by such corporation to the incumbent, to whom a renewal of

such lease might have been granted, without such corporation requiring the payment of any valuable consideration for such conveyance.

19. When any ecclesiastical corporation, previous to the passing of this act, has been accustomed to reserve any annual rent or other payments, in any lease granted or renewed by them, for the endowment, either in whole or part, of the incumbent of any parish or chapel, the whole estate of such ecclesiastical corporation in such annual rents or other payments heretofore granted and reserved as aforesaid may, with the consent of the Ecclesiastical Commissioners, under their common seal, be lawfully conveyed to the incumbent for whom they are at present reserved, without such corporation requiring any valuable consideration for the conveyance of such estate.

20. In any case in which any estate or interest, under any lease or grant made by any such ecclesiastical corporation, may be vested in any person or persons as a trustee or trustees, whether expressly or by implication of law, with power to raise money for the purpose of procuring a renewal of such lease or grant, and in every other case in which a power is vested in any person or persons for that purpose, it shall be lawful for such person or persons to raise money for the purpose of purchasing the reversion of or otherwise enfranchising the property comprised in such lease or grant, and to apply the same accordingly, in the same manner, and subject to the same conditions, *mutatis mutandis*, so far as the same may be applicable to the case, as such person or persons might, by virtue of such power, have raised money for the purpose of renewing such lease or grant, and have applied the same accordingly.

21. In estimating, for the purposes of any sale, purchase, or exchange under the said acts of the 14 & 15 Vict. and 17 & 18 Vict., and this act, or any of them, the value of the estate or interest of any lessee of any lands holden of any archbishop or bishop, or of the Ecclesiastical Commissioners, under any lease granted for a term of twenty-one years, an extension of the unexpired term to the 11th October, 1884, at the accustomed rate of fine, shall, as a rule, be allowed, and a like extension, at the accustomed rate of fine, shall, for the purposes of sale, purchase, or exchange, be allowed in the case of any lease for lives, the extent and value of which shall be computed by arbitrators, in default of an agreement between the parties, to be less than the extent and value of a term ending on the said 11th October, 1884.

22. The said Ecclesiastical Commissioners, or an ecclesiastical corporation, aggregate or sole, in carrying out the powers of leasing mines and minerals vested in them, shall, in the granting to the lessees of mines and minerals holden of the Ecclesiastical Commissioners, or any ecclesiastical corporation, aggregate or sole, whether for years or for lives, an extended term or estate therein, and fixing the terms of such grant, have regard to the value of the estate and interest of the lessees of all such mines and minerals under any lease or leases heretofore ordinarily renewable on the payment of a fine, and shall, as a rule, in computing such value, estimate and include an extension of the existing unexpired term or estate of the lessees to the 11th October, 1884, at the accustomed rate of fine; and in the case of such of the said leases for lives as, according to the expectancy of human life, according to the life tables which are appended to the twelfth annual report of the registrar-general of births, deaths, and marriages in England, would not determine until after the said 11th October, 1884, shall have regard to the actual value of the estate and interest of the lessees.

23. In case any such lessees shall require any extended term in such mines and minerals to be granted to them, and any difference shall arise between the said Ecclesiastical Commissioners or other ecclesiastical corporation and such lessees thereupon, or as to the value so to be estimated, or as to the rents to be reserved, or the term of years to be granted, or other the terms and conditions on which such lease for any extended term or estate shall be granted, it shall be lawful for either party to require the other party to join in referring to arbitration the matter or matters so in difference, and the same shall be referred to arbitration.

24. In any case where a treaty shall have been or shall be entered into under the said acts of the 14 & 15 Vict. and the 17 & 18 Vict., and this act, or any of them, for any sale, exchange, or purchase, it shall be lawful for either party to require the other party to join in referring to arbitration the

finding of the annual value of the property comprised in the lease or grant, and of the value of the fee-simple; and when such values have been found, it shall be binding on both parties, if either party require to proceed to such sale, exchange, or purchase, on terms to be computed according to such finding: provided always, that whenever the Ecclesiastical Commissioners shall decline to enter into a treaty with a lessee for either the sale of the reversion or the purchase of the term of or in the lands held by such lessee, it shall nevertheless be lawful for such lessee, at any time within two years after the said commissioners shall have so declined to treat, to require that his estate and interest therein shall be purchased by the Ecclesiastical Commissioners so declining to treat as aforesaid, and that the value of such estate and interest shall be ascertained by such methods, and with such extension of the unexpired term on his said lease, as are by this act provided in respect of other leaseholds.

25. Provided always, that under any arbitration under the said act of the 17 & 18 Vict., or this act, where any lease shall relate to lands, (except building ground or houses), the beneficial interest of the lessee shall be valued at the same rate of interest at which the value of the fee-simple has been determined; and where such lease shall relate to houses or to building ground, it shall be lawful for the arbitrator or arbitrators or umpire, as the case may be, simply to find the gross sum to be paid for such sale or enfranchisement, in such manner as he or they may deem just: provided also, that regard shall be had to any consideration given to the lessee by this act on account of the long-continued practice of renewal: provided further, that in the case of houses the umpire shall, notwithstanding anything in the last-mentioned act or this act contained, be appointed by her Majesty's Principal Secretary of State for the Home Department.

26. Where persons holding under-leases under the lessee of any ecclesiastical corporation may, either before or after the passing of this act, be under obligation to pay or contribute to the fines and expenses of renewal, and such lessee is unable to obtain a renewal of his lease, but the under-lessees are, by reason of the purchase of the reversion or other arrangement made by such lessee with the Ecclesiastical Commissioners, secured in the enjoyment of the full terms which might have been secured to them by means of such renewal, or shall be otherwise sufficiently indemnified from all loss which might be occasioned by want of such renewal, the persons holding such under-leases shall pay to such lessee such gross sums of money, or such additional yearly rents during the unexpired residues of such terms, as may be a just equivalent for the exemption from the expenses of such renewal; and where any such under-lessee has under-leased, and his under-lessees are under like obligation to contribute to the expenses of such renewal, they shall pay to their under-lessor such gross sums of money, or such additional yearly rents during the unexpired residue of their terms, as may be a just equivalent for such exemption as aforesaid; and the payments to be made in each case, and the nature and sufficiency of the indemnity (if any) to be given, shall, in case the parties differ about the same, be referred to arbitration.

27. And whereas considerable portions of the lands and houses holden by lessees of ecclesiastical corporations, which may be dealt with under the provisions of this act, are by such lessees granted to under-lessees, with the right of renewal in case of the renewal of the original lease, and again sub-demised by such under-lessees to persons holding under them with a similar right of renewal: that all such under-lessees, and persons having such right of renewal, shall have and enjoy, according to their respective estates and interest in such lands and houses, the benefit of the provisions contained in this act for the protection of the lessees.

28. The powers and provisions contained in sect. 2 of the said act of the 14 & 15 Vict. [c. 104], and sect. 2 of the said act of the 17 & 18 Vict. [c. 116], shall extend to authorise the apportionment of fines certain and heriots, and also to authorise the substitution of money payments in lieu of heriots, and the apportionment of such money payments, and shall be applicable as well to cases under those acts as to cases under this act; and the powers and provisions so extended shall apply to all cases of the surrender, conveyance, or assignment to or in trust for the said Ecclesiastical Commissioners of the estate or interest in a part only of the lands comprised in any lease, grant, or copy, the reversionary or

freehold estate in which is or shall be vested in the said Ecclesiastical Commissioners, and also to all cases of the sale, exchange, or enfranchisement, by the said Ecclesiastical Commissioners, of a part only of the lands comprised in any such lease, grant, or copy; and the enfranchisement or surrender under the said acts, or either of them, or this act, of a part only of any copyhold or customary lands held under a grant or copy, shall not affect, in other respects than the apportionment of the rents, fines, and heriots, any custom by or under which the remainder of the land comprised in such grant or copy is held, or the demisable quality of the remainder of such land.

29. In every case in which, under any contract by the Ecclesiastical Commissioners or any such corporation with any lessee or grantee holding land under the Ecclesiastical Commissioners or such corporation by any lease for lives or years, or copyhold or customary grant, for the purchase or receiving in exchange or partition by the Ecclesiastical Commissioners or such corporation of any land comprised in such lease or grant, any sum of money is agreed to be paid by the said Ecclesiastical Commissioners or such corporation, and in which the lessee or grantee shall fail, or declare himself unable to make a marketable title to, or an effectual assurance of, such land to the said Ecclesiastical Commissioners or such corporation, such sum of money may, with the consent of such lessee or grantee, be paid into the Bank of England, in the name and with the privity of the Accountant-General of the Court of Chancery, to an account in the matter of "An Act," [title of this act], to the credit of the parties interested in such land, and be disposed of in like manner as is directed by the Lands Clauses Consolidation Act, 1845, with respect to purchase monies in the case of parties neglecting or failing to make out satisfactory titles; and upon the execution of an assignment, surrender, or other assurance by the person for the time being the party in possession or receipt of the rents and profits of the land so agreed to be sold or conveyed in exchange unto or in trust for the Ecclesiastical Commissioners or such corporation, all the estate and interest in such land in respect whereof such money shall have been paid shall vest absolutely in the said Ecclesiastical Commissioners or corporation, or other person to whom the same shall be expressed to be assured.

30. It shall be lawful for the commissioners, if they shall think fit, to release any rent-charge granted or transferred to them by way of endowment of any church or chapel, in consideration of the transfer into their names of a sum in the 3l. per Cent. Consolidated Bank Annuities, producing dividends equal in amount to such rent-charge; and also, if they shall think fit, to release any part or parts of the lands out of which any such rent-charge is issuing from the payment thereof, without any consideration, provided the residue of such lands shall, in their judgment, be sufficient security for such rent-charge; and in such case the rent-charge shall be wholly chargeable on and issuing out of such residue of the lands.

31. Where any estate now or heretofore of any ecclesiastical corporation is subject to any special act of Parliament providing for the perpetual renewal of the lease or leases thereof, or for the leasing or the management of such estate, or creating or imposing any rights, remedies, or obligations with reference to such estate, the rights of renewal, and other the rights and obligations under such special act, shall not be affected by this act, or by the transfer of such estate to the commissioners; but such special act, and any leases, contracts, under-leases, enfranchisements, and instruments already or hereafter to be made, entered into, or executed thereunder, shall be construed so that, by virtue of the act of Parliament or other authority under which the estate shall have been transferred to or vested in the commissioners, the same leases, contracts, under-leases, enfranchisements, and instruments may operate and have effect as if the commissioners, as to such part of the estate as for the time being shall be vested in them, and their respective assigns, as to each such several part thereof as shall be vested in them respectively, were therein substituted for the ecclesiastical corporation whose estate has been or shall be so transferred, or have become so vested; and such special act, leases, contracts, under-leases, enfranchisements, and instruments shall be construed as if such commissioners, or their respective assigns, as regards the portion of the estate vested in them respectively, were named or referred to therein instead of the

corporation named or referred to therein; and the seal of such commissioners shall be in every case as regards the estate or part of an estate for the time being vested in them, and the sealing and delivery by any assignee shall be in every case as regards the estate or part of an estate for the time being vested in him, as effectual as the signature or seal, or signature and seal, as the case may be, of the corporation whose estate has been or shall be so transferred or become so vested.

32. Whenever any property shall be vested in the Ecclesiastical Commissioners jointly or in common with any other person, or subject to any estate or interest vested in any other person, either under any special act of Parliament or any lease or grant, and such person shall be a trustee of the estate or interest vested in him or them, it shall be lawful for such trustee, in every case in which he shall expressly or by implication of law have a power of sale, with such consents only (if any) as may be requisite to such sale, to concur with the said Ecclesiastical Commissioners, and also to and for the said Ecclesiastical Commissioners, under an arrangement to be made in manner herein provided, to concur with such trustee as aforesaid, in making partition of such property so as to vest in the said commissioners in severalty in fee, discharged from all rights, titles, and trusts affecting the estate or interest of such trustee, such portion of the said property as shall, under all the circumstances of the case, be a just and fair equivalent for the interest of the said commissioners in the whole of such estate, and in any payments or reservations payable to them thereout, and so as to vest in such trustee in severalty in fee such remaining portion of such estate as shall in like manner be a just and fair equivalent for the interest in the whole estate of all other parties besides the said commissioners; and the portions of such estate to be vested in the said commissioners and trustee respectively in severalty as aforesaid shall be ascertained by arbitration as herein provided.

33. Every exchange or partition which shall be made under the provisions of the said acts of the 14 & 15 Vict. and the 17 & 18 Vict., and of this act, or any of them, shall be valid and effectual in the law to all intents and purposes whatsoever, and shall be in nowise liable to be impeached by reason of any infirmity of estate or defect of title of any of the parties to such exchange or partition; and the land expressed to be conveyed to or vested in any corporation or person under such exchange or partition shall henceforth be subject only to the same uses, limitations, charges, and equities as previously affected the land in lieu or in respect of which the same was conveyed or vested by way of substitution, or as near thereto as regard being had to the different natures or tenures of the interests acquired under such exchange or partition, and the relative rights and equities of parties, and the circumstances of the case, will admit or may require.

34. When the reversion in fee in the lands and hereditaments at Paddington, in the county of Middlesex, part of the possessions of the see of London, (commonly called "the Paddington estate"), now vested in the Bishop of London, subject to the provisions of a private act of Parliament passed in the 6 Geo. 4, c. xlv, and the several acts therein recited, shall be vested in the said Ecclesiastical Commissioners, either under the provisions of this act or of any of the acts relating to the said Ecclesiastical Commissioners, the same shall become vested in them subject to the several powers and obligations created by the said private act and the acts therein recited, which powers and obligations shall be exercisable by and binding upon the said commissioners while the said reversion shall remain vested in them, in the same manner as if the said commissioners were named in the said acts instead of the said bishop, and as if the common seal of the said commissioners had been thereby required or referred to instead of the hand or signature of the said bishop; and the said reversion shall continue to be so vested in the said commissioners until a special scheme, to be prepared by the said commissioners, for the purpose of transferring, disposing of, or managing the same, shall be approved of by her Majesty in Council, notice of which scheme shall be inserted and published in the London Gazette one calendar month at least previously to the same being so approved; and in such scheme there shall be inserted such provisions as shall be deemed proper for the preservation and future exercise and fulfilment of the said powers and obligations, with such alter-

rations or modifications (if any) as, having regard to the change of circumstances, may be deemed necessary; and such scheme, when so approved, shall have the force of an act of Parliament.

35. And whereas in some cases leases or grants made by ecclesiastical corporations are in settlement, or held in trust, without power to raise money for renewals, or the manner prescribed for raising money for renewals may not be applicable for raising the money required for purchase or enfranchisement; it shall be lawful for any person or persons being a trustee or trustees, expressly or by implication of law, of any such lease or grant, or any person being under any will or other settlement in the actual possession or receipt of the rents and profits of the lands comprised in such lease or grant, upon purchasing the reversion or otherwise procuring the enfranchisement of such lands, to charge such lands (or where the whole thereof is settled to the same uses, trusts, or purposes, any part thereof, exclusively of the residue thereof) with the payment to any person advancing any money paid for such purchase or enfranchisement, and for the expenses incident to such purchase or enfranchisement, or, for either of those purposes, of the money so advanced, with interest thereon at a rate not exceeding 5l. per centum per annum, and to convey or cause to be conveyed such lands by way of mortgage for securing such payment accordingly; and such charge shall be effectual, as well on the subsisting term or estate under such lease or grant as on the reversion or interest acquired by such purchase or enfranchisement, and not only against the person making the same, and all persons claiming through him or for whom he may be a trustee, but also against all persons claiming any estate or interest in the same lands through or under the same will or settlement, but so as not to prejudice any prior charge or incumbrance, under lease, or tenancy affecting such lands; and, subject and without prejudice to such charge and mortgage so made as aforesaid, the interest acquired by such purchase or enfranchisement shall be subject in equity as is provided by sect. 3 of the said act of the 14 & 15 Vict., concerning the interest in land acquired by any lessee under that act.

36. Wherever the estate and interest under any such lease or grant may be vested in any trustee or trustees, either expressly or by implication of law, and any monies, stocks, funds, or securities for money are vested in the same trustee or trustee, upon the same or like trusts, it shall be lawful for such trustees or trustee, with the consent of the person or persons entitled for the time being to the beneficial receipt of the dividends or annual proceeds of such monies, stocks, funds, or securities, if such person or persons shall be capable of giving consent, or if there shall be no person capable of giving consent, or if such consent shall be withheld, and the trustee or trustees shall consider such a course essential to the interest of the parties entitled under the settlement, then with the sanction and approbation of the Court of Chancery, to be obtained on petition to the said court, to raise out of such monies, or by sale of such stocks, funds, or securities, a sufficient sum for the purpose of purchasing the reversion of, or otherwise enfranchising, the property comprised in such lease or grant, and of procuring, if necessary for the purpose of enfranchisement, the renewal of such lease or grant, and to pay and apply the same accordingly, and all payments and applications of monies, or of the proceeds of the sale of such stocks, funds, or securities, so made as aforesaid, shall be valid and binding on all persons interested under the trust, will, or settlement under or by which such monies, stocks, funds, or securities for money may be held in trust or settled as aforesaid.

37. Where any such lease or grant may be vested in any person or persons as a trustee or trustees, whether expressly or by implication of law, and other lands, whether freehold, copyhold, or leasehold, are vested in the same trustees or trustee upon the same or like trusts, or are settled to the same uses or purposes, or as near thereto as the different tenures of the lands admit, or where any person is, under any will or settlement, in the actual possession or receipt of the rents and profits of the lands comprised in such lease or grant, and of other lands settled to like trusts or uses as aforesaid, it shall be lawful for such trustees or trustee, or such person as aforesaid, with the sanction and approbation of the Court of Chancery, to be obtained on petition to the said court, to raise money, either by sale or mortgage of all or any part of the property comprised in the lease or grant, and the other lands,

whether freehold, copyhold, or leasehold, vested in such trustee or trustees, or settled as aforesaid, as the said court shall direct, for the purpose of purchasing the reversion of or otherwise enfranchising the property comprised in such lease or grant, in such manner, and subject to such provisions for protecting or adjusting the equities arising under such purchase or enfranchisement and such mortgage or sale as aforesaid, as the court shall think fit; and all sales and mortgages effected for the purposes aforesaid shall be valid and binding on all persons interested under the trust, will, or settlement under which such lands may be held in trust or settled as aforesaid.

38. In any case in which the estate and interest under any lease or grant made by any ecclesiastical corporation may be vested in any trustee or trustees, and such trustee or trustees shall not have power to sell, it shall be lawful for such trustee or trustees, with the consent in writing of the person or persons entitled for the time being to the beneficial receipt of the rent or annual proceeds thereof, if such person or persons shall be capable of giving consent, or if there shall be no person capable of giving consent, or if such consent shall be withheld, and the trustee or trustees shall consider a sale essential to the interests of parties entitled under the settlement, then with the sanction and approbation of the Court of Chancery, to be obtained on petition to the said court, to sell and dispose of all or any part of such property; and in every such case the purchase money shall be paid to such trustee or trustees, whose receipt shall be a good discharge for the same; and the money so paid to such trustee or trustees shall be invested and be held by him or them upon the same trusts, as far as the circumstances of the case will admit, as the leasehold property, if not sold, would have been subject to; and such investment may, with the sanction and approbation of the Court of Chancery, be made in the purchase of other leasehold estates, whether held under any ecclesiastical corporation or not.

39. Any person authorised, under this act or otherwise, to raise any money for the purchase of the reversion of any lease or grant, may exchange with the corporation by which such lease or grant was made, or with the Ecclesiastical Commissioners, any part of the lands comprised in such lease or grant, for the reversion, estate, or interest of such corporation or the Ecclesiastical Commissioners in any other part of the lands comprised therein, or may exchange such lands, or any part thereof, for the reversion, estate, or interest of the corporation by which any lease or grant was made in any lands comprised in any other lease or grant held under the same trusts, or settled to the same uses, trusts, or purposes.

40. And whereas certain officers of ecclesiastical corporations will be injured by the restriction hereinbefore contained on the power of granting leases, whereby such officers will be deprived of the profits arising from the preparation of such leases and other instruments connected therewith: it shall be lawful for the said Ecclesiastical Commissioners, and they are hereby required, to award and pay to such officers such sum of money or annuity as may be deemed by the said commissioners a sufficient compensation for the loss such officers will from time to time sustain by reason of the restriction aforesaid: provided nevertheless, that such officers have personally discharged their own duties.

41. Where by this act it is provided that any matter in difference shall be referred to arbitration, or where any difference shall arise between the commissioners and any body or person touching the annual or other sums of money to be paid to any archbishop or bishop as herein directed, or touching the value or nature of the estates proposed to be assigned as endowment for any archbishop or bishop, the matter in difference shall be referred to two arbitrators, one to be appointed by each party, and all the provisions of the Common-law Procedure Act, 1854, applicable in the case of such an arbitration, shall apply accordingly; and for the purpose of the application of the said act this act shall be deemed the "document" authorising the reference to arbitration; and where any matter is so referred, the award of the arbitrators or umpire shall be final.

42. It shall be lawful for any person, within the meaning of the term "person," as the same is interpreted by the act 16 & 17 Vict. c. 50, to exchange, under the provisions of the same act, any advowson or ecclesiastical patronage belonging

to such person for any advowson or ecclesiastical patronage belonging to any ecclesiastical corporation aggregate or sole, or any other person.

43. Every receipt or acknowledgment of payment already given or to be given by the treasurers for the time being of the said Ecclesiastical Commissioners shall fully discharge the person or corporation to whom the same shall be given from all responsibility in respect of the amount in such receipt or acknowledgment expressed to have been received or paid, and from all liability in respect of the application or misapplication thereof.

44. Nothing in this act contained, except sects. 18, 19, and 42, shall in any manner affect or apply to the Cathedral Church of Christ in Oxford, nor shall anything in this act contained affect or apply to the Cathedral or Collegiate Church of Manchester, or to the Parish of Manchester Division Act, 1850.

## CAP. CXXV.

An Act for better regulating the Supply of Gas to the Metropolis. [28th August, 1860.]

Sect. 1. *Short title.*

2. *Stat. 10 & 11 Vict. c. 15, incorporated with this act.*

3. *Companies and persons to whom the act applies.*

4. *Interpretation of terms.*

5. *Limits of act.*

6. *Sanctioning assignment of districts to gas companies to be subject to triennial revision.*

7. *On complaint as to quantity and quality, Secretary of State may appoint a person as inspector to inquire and report.*

8. *Power of inspector so appointed.*

9. *Penalty on obstructing inspector.*

10. *Notice, if complaint well founded.*

11. *Company to remove ground of complaint.*

12. *Gas companies to obey the orders of Secretary of State.*

13. *Cost of altering district.*

14. *Gas companies to provide pipes, and supply gas and meters at prescribed rates.*

15. *Security to be given to gas company, if required.*

16. *Differences as to security to be determined by a magistrate.*

17. *Penalty on gas company failing to provide pipes or supply of gas or meters.*

18. *Gas to be consumed by meter if required by companies.*

19. *Gas companies may contract for supply.*

20. *Contracts valid though not under seal.*

21. *Restrictions on contracts with gas companies.*

22. *Gas companies to light streets when required by local authority.*

23. *Local authorities may provide lamp posts and lamps.*

24. *Service pipes to be fully charged with gas.*

25. *Illuminating power and purity of gas.*

26. *Penalty for deficient illuminating power or impurity.*

27. *Appointment by local authority of examiner of gas.*

28. *Examination of gas, and report thereon.*

29. *Two or more local authorities may join in the appointment.*

30. *Complaint to a magistrate as to supply of gas.*

31. *Hearing on report.*

32. *Order on hearing.*

33. *Gas company to obey order.*

34. *Gas companies to afford facilities for examination under this act.*

35. *Limit of charge for gas and meters.*

36. *Determination of existing contracts.*

37. *Limit of charge for gas supplied to public lamps.*

38. *Difference to be settled by arbitration.*

39. *Incoming tenant not to pay arrears of outgoing tenant, unless by express agreement.*

40. *Appeal by consumers to Home Secretary on rise of price of gas.*

41. *Home Secretary may issue form of accounts to be filled up by gas companies.*



42. Gas companies to cause maps of their districts to be made.
43. As to deposit and inspection of the maps.
44. Charge for inspection of map.
45. Secretary of State may direct proceedings by the Attorney-General against gas companies.
46. Recovery and application of penalties.
47. Jurisdiction of magistrates for purposes of act.
48. For the protection of water companies.
49. For laying pipes to convey gas.
50. Mode of laying pipes.
51. To prevent further contamination of water by gas.
52. For ascertaining if the water is contaminated.
53. Appropriation of penalties in the city of London.
54. Saving rights of Metropolitan Board of Works, vestries, and others.
55. Saving general jurisdiction of courts of law and equity.
56. Expenses of act.
57. Expenditure of local authorities under this act.

Whereas the following gas companies, that is to say, the Gas-light and Coke Company, the City of London Gas-light and Coke Company, the Commercial Gas-light and Coke Company, the Equitable Gas-light Company, the Great Central Gas Consumers Company, the Independent Gas-light and Coke Company, the London Gas-light Company, the Phoenix Gas-light and Coke Company, the Ratcliff Gas-light and Coke Company, the Surrey Consumers Gas Company, the South Metropolitan Gas-light and Coke Company, the Western Gas-light Company, Limited, the Imperial Gas-light and Coke Company, or some of them, are respectively incorporated, under the authority of Parliament, for the purpose of supplying several districts of the metropolis with gas; and the said companies, instead of supplying gas by several mains in the same district, have agreed, as far as possible, each one to confine its supply to a separate district, in order to economise capital and avoid the too frequent opening of the public streets; and, subject to the provisions and restrictions of this act, it is expedient that such districting should receive the sanction of Parliament: and whereas the regulations to which those companies are subject are not uniform: and whereas it is expedient that provision be made for the due regulation of all companies and persons supplying gas within the metropolis: be it enacted &c. as follows; that is to say—

Sect. 1. This act may for all purposes be cited as "The Metropolitan Gas Act, 1860."

2. The Gasworks Clauses Act, 1847, (except so far as the provisions thereof are inconsistent with this act), is incorporated with and forms part of this act, and shall apply to the several companies before named or referred to, as fully as if the gasworks of the several companies were authorised by this act; and the expression "undertakers" in the recited act shall be held to apply to every gas company affected by this act; but it shall not be lawful for any gas company, by the application of any of their profits or funds, to make up to the prescribed rate, or the rate of 10*l.* per cent. per annum where no such rate shall be prescribed, any dividend which shall have been payable more than six years previously; provided that the powers vested in the justices by the said act shall be exercised by a magistrate.

3. This act applies to the several gas companies, and to all persons already or hereafter supplying gas within the metropolis, except as hereinafter excepted.

4. In the construction of this act the following words and expressions have the following meanings, unless excluded by the subject or context; that is to say—

The expression "gas company" or "gas companies" means and includes any and every company, and any person or persons, supplying gas within the limits of this act:

The expression "local authority" includes the Metropolitan Board of Works, vestries, and district boards appointed under an act of the 18 & 19 Vict. c. 120, for the local management of the metropolis:

The word "inspector" or "inspectors" shall mean any metropolitan gas inspector or inspectors to be appointed under this act:

The word "consumer" means a person receiving, or enti-

tled, in accordance with this act, to receive, a supply of gas from any gas company:

The words "the metropolis" have the same meaning as in the said act of the 18 & 19 Vict. c. 120:

The word "district" means, with respect to every gas company supplying gas wholly or in part within the metropolis, the district, so far as it is within the metropolis, within which the gas company are from time to time authorised to supply gas; and means, with respect to any person or persons not being a gas company, but supplying gas wholly or in part within the metropolis, the district within the metropolis within which he or they shall from time to time, as a trade or business, supply gas:

The word "street" includes square, court, alley, highway, lane, road, thoroughfare, and public passage or place:

The word "premises" includes public and private messuages and other buildings, lands, and tenements whatsoever:

The words "the gasworks" mean the works of the respective gas companies, and the works connected therewith:

The words "rate" include all rents and other payments for a supply of gas:

The words "meter rent" include all rents and other payments for the use of gas meters:

The word "magistrate" means any police or stipendiary magistrate acting in and for the district of the metropolis in which the matter referred to him arises, and in the city of London and the liberties thereof shall mean any justice of the peace for the city of London and the liberties thereof:

The words "common gas" shall mean gas of an illuminating power, hereinafter defined, of not less than twelve candles:

The words "cannel gas" shall mean gas of an illuminating power, hereinafter defined, of not less than twenty candles.

5. The limits of this act shall be the metropolis: provided always, that this act, and the several clauses and provisions thereof, shall not extend or apply, or be construed to extend or apply, to the several gas companies set forth and enumerated in the schedule annexed to this act: provided also, that the districts severally specified and described in the acts and instrument of incorporation respectively mentioned in the said schedule, or within which the said companies, or any of them, are now supplying gas, (notwithstanding the said districts, or any portions thereof, are or may be within the limits of the metropolis as defined by this act), shall not be included or deemed to be included in the expression "the metropolis," or any extension thereof which may hereafter be made, under the provisions of the hereinbefore-mentioned act of the 18 & 19 Vict. c. 120: provided also, that if the said companies, or any of them, shall supply gas in parts of the metropolis other than those within their respective districts as defined in the said schedule, then the provisions of this act shall be held to apply to such companies respectively so far only as regards such extended limits as may be within the metropolis.

6. The limits of each of the said companies shall be the respective districts supplied with gas by such companies, as the same are defined upon four duplicate maps, signed by the Right Hon. Thomas Henry Sutton Sotherton Escount, and which maps have been severally deposited with the respective clerks of the peace for the counties of Middlesex, London, Surrey, and Kent; provided that at the expiration of three years next after the passing of this act, and of every three years thereafter, her Majesty's Principal Secretary of State for the Home Department for the time being may, either upon the application and with the consent of any two or more of the said gas companies whose districts adjoin one another, make any alteration in the boundaries of such districts, or upon the application of any local authority, or upon the requisition of not less than twenty gas consumers within any district or districts proposed to be affected, and upon proof to his satisfaction being given that any of the said gas companies are not in a condition adequately to supply with gas their respective districts, or have substantially failed to fulfil the obligations imposed by this act, may make such alterations in the boundaries of such districts, or admit any new company



respectively, as he thinks proper; and all such alterations shall be certified on one or more maps, to be signed by the said Secretary of State, and deposited with one or more of the said clerks of the peace; and such last-mentioned map or maps shall be binding on all parties, and the provisions of this act shall be held to apply to the several districts when so altered, and to the several companies affected thereby, as fully and effectually as if no alteration in such districts had been made; and no other company or person than the company to whom such limits are for the time being assigned, or shall hereafter be assigned, shall supply gas for sale within the said limits, unless authorised by Parliament so to do; provided that before proceeding to consider the necessity for altering any of the said districts the said Secretary of State shall cause at least one month's notice to be given of such application to all parties interested therein or affected thereby, and such notice shall state the day and hour when, and the place where, such application will be considered; and notices to be given to any gas company shall be left with the secretary or some other principal officer of the company, and notices to be given to any local authority shall be left with the clerk or some other principal officer of the said local authority.

7. If at any time complaints as to the quantity or quality of the gas supplied by any company be made to the said Secretary of State by memorial in writing from the Metropolitan Board of Works, or any vestry or district board of works, signed by their clerks respectively, or not less than twenty inhabitant householders paying rates for and supplied with gas by any such company, it shall be lawful for the said secretary, at any time within one month after the receipt of such complaint, to appoint a competent person as inspector to inquire into and concerning the grounds of such complaint, and to report to the said secretary thereon.

8. The inspector so appointed as aforesaid shall give notice of his appointment in writing to the company, and at any time after twenty-four hours from the time of his giving such notice as aforesaid he shall have power to inspect and examine the gasworks of the company, and to inquire into and concerning the grounds of such complaint, and the company and their officers shall afford all reasonable facilities for such inspection, examination, and inquiry.

9. Any person obstructing such inspector in the due prosecution of such inspection, examination, or inquiry shall forfeit and pay any sum not exceeding 10*l*.

10. If after receipt of such report it shall appear to the said secretary that the said complaint is well founded, the said secretary shall give notice thereof in writing to the company.

11. After the receipt of such notice the company shall, and they are hereby required, within a reasonable time, to remove the grounds of such complaint.

12. Every gas company shall in all things obey the orders of the said secretary made in pursuance of this act, and in default of their so doing they shall be liable to a penalty not exceeding 50*l*. for each offence.

13. All the costs, charges, and expenses of and incident to any inquiry and decision of the said Secretary of State under this act shall from time to time be borne and paid by such parties as the said Secretary of State shall direct, and such decision may, upon an ex parte application, be made a rule of any of her Majesty's superior courts of law at Westminster.

14. Every gas company from time to time supplying gas within any district shall, as to any premises or street within such district not already supplied with gas, and which shall lie within fifty yards of any existing mains, at their own expense, on being required by the owner or occupier of any premises within the district, or in part within the district, who shall contract for not less than two years to pay gas rates in respect of such supply to an amount equal to 20*l*. per cent. upon the outlay, provide and lay all proper and sufficient communication, service, and other pipes up to the premises of such owner or occupier, to communicate with the gas company's mains, and shall, if so required by the owner, occupier, or local authority, furnish him or them, at the rate prescribed by this act, with a supply of gas for the purpose of being used in or on the premises, or for lighting the street, and, if so required by the owner or occupier, furnish him with one or more meters for ascertaining the quantity of

gas consumed: provided, that the gas company shall not be bound to supply more than one meter for each consumer occupying a separate dwelling or apartment, nor any meter exceeding a five-light meter: provided also, that the meter rent which the said company shall be entitled to claim for such meter shall not exceed 10*l*. per cent. on the net cost of such meter: provided, that it shall not be lawful for any company not charging a meter rent on the 1st January, 1860, to charge such rent within their district until after the 1st January, 1862.

15. Provided, that the owner or occupier, if so required in writing by the gas company or any of their officers, shall, before he is entitled to have the pipes provided and laid, or to have a supply of gas or of meters furnished, give to the gas company such security for the payment of the rate for the gas to be supplied to him, and of the meter rent for every meter to be supplied to him, as he and the gas company agree on.

16. Provided, that if the owner or occupier and the gas company cannot agree thereon, the security to be given shall be determined by a magistrate; and any single magistrate shall, on the application of the owner or occupier and the gas company, or either of them, determine the nature and amount of the security to be given; and the security may, as the magistrate thinks fit, be the deposit with the gas company, or with any person approved by the magistrate, or the prepayment to the gas company, of a sum of money or any other security which the magistrate thinks sufficient and reasonable; and the determination of the magistrate shall be binding on all parties, and final: provided, that if the security be the deposit with the gas company of a sum of money, the gas company shall pay interest thereon to the consumer at such rate as the magistrate shall determine.

17. If the gas company, not being entitled to require, or not having required, any security, wilfully fail for seven days after being thereunto required in writing by the consumer, or, where the security agreed on or determined by the magistrate is given, shall wilfully fail for fourteen days thereafter to provide and lay all proper and sufficient communication, service, and other pipes, or to furnish a supply of gas, or to furnish any meter, pursuant to the provisions of this act, then and in every such case the gas company shall, on a summary conviction before a magistrate, forfeit and pay to the consumer not exceeding 40*l*. for every day after the expiration of seven or fourteen days respectively during which the failure continues.

18. Provided, that every private consumer shall, if so required in writing by the gas company, consume the gas by meter; but any consumer may, if he thinks fit, provide his own meter.

19. Subject to the provisions of this act, every gas company from time to time may enter into any contract with any owner, occupier, or local authority, for all or any of the following purposes; that is to say, for supplying him or them with gas, and with pipes, burners, meters, lamps, lamp posts, and other apparatus, and for the repair and cleansing, and for the lighting and extinguishing thereof, in such manner and on such terms and conditions as the parties agree.

20. Provided, that notwithstanding its being required by any act of Parliament or otherwise that the gas company's contracts shall be under seal, every contract of the gas company entered into in accordance with this act shall, without seal, be binding on them, if the contract be signed by at least two of their directors, or by their secretary or other officer by the authority of at least two of their directors.

21. Provided, that no contract for any of those purposes shall contain any term or condition contrary to any of the provisions of this act, or for giving, in case of difference, the sole arbitration thereon to the gas company, or any officer or person who is or has been employed by them, or who may have a pecuniary interest in such company, or for requiring any notice by a consumer discontinuing his supply of gas or meter which shall make him liable to pay more than one month's rate or meter rent after the time of the service of the notice, or which shall entitle the gas company, except for breach of any of the provisions of this act, to discontinue any supply of gas by less than one month's notice in writing to the consumer, unless the rate due for gas shall be in arrear, in which case three days' notice in writing to the consumer shall be sufficient.

22. The gas company shall well and effectually light all public lamps in all streets which they are required by the local authority to light, and shall, according to the terms of their contract, supply to the local authority so much gas as they require for their public lamps: provided, that the gas company shall not be compelled to light any street with lamps at a greater distance from each other than seventy-five yards.

23. The local authority may provide and keep in repair their own public lamp posts and lamps, and apparatus connected therewith, and, in case of their electing to burn by meter, light and extinguish the lamps, and defray the expenses thereof.

24. Every gas company shall, unless prevented by necessary repairs or unavoidable accident, at all times keep all their branch or service pipes fully charged with gas, and the stop-cocks so turned as not to prevent the branch or service pipes from being at all times filled with gas.

25. The quality of the common gas supplied by any gas company shall be, with respect to its illuminating power at a distance as near as may be of 1000 yards from the works, such as to produce from an argand burner having fifteen holes and a seven-inch chimney, consuming five cubic feet of gas an hour, a light equal in intensity to the light produced by not less than twelve sperm candles of six to the pound, each burning one hundred and twenty grains an hour; and the quality of cannel gas supplied by any gas company shall, with respect to its illuminating power at the distance aforesaid, be such as to produce from a batwing or fishtail burner, consuming five feet of gas per hour, a light equal in intensity to twenty such sperm candles; and each such gas shall, with respect to its purity, be so far free from ammonia and sulphuretted hydrogen that it shall not discolour either turmeric paper or paper imbued with acetate or carbonate of lead, when those tests are exposed to a current of gas issuing for one minute under a pressure of five-tenths of an inch of water, and shall not contain more than twenty grains of sulphur in any form in one hundred cubic feet of gas: provided, that any gas company, and the local authorities of the district supplied by such company, shall be at liberty to agree upon any other or different test by which to ascertain the purity of the gas, or to vary the amounts of ammonia or sulphur in any form hereinbefore allowed; and thereupon the company shall be thenceforth liable to have the purity of their gas tested in the manner so prescribed.

26. If the gas supplied by the gas company be at any time of less illuminating power or of less purity than according to this act it ought to be, the gas company shall for every such offence, on a summary conviction before a police magistrate, forfeit a sum not exceeding 50*l.*, and also, in addition to that penalty, and whether that penalty be recovered or not, a further sum of 10*l.* for every day after notice in writing from the local authority during which the offence continues: provided, that such police magistrate shall not convict under this section if it shall be proved to his satisfaction that such defect of gas was occasioned by any unavoidable cause or accident.

27. Every local authority taking any supply of gas according to this act shall provide all proper and sufficient apparatus, machinery, and instruments for testing the illuminating power and purity of the gas, and from time to time shall appoint, and out of any funds applicable by them for their local purposes may pay, a chemical examiner or gas engineer, or other competent person, to be an examiner for the purposes of this act; and every gas company shall, within six months after the passing of this act, cause to be erected in some convenient place, as near as may be to 1000 yards from their works, (such place, in case of dispute between the company and the local authority, to be fixed by a police magistrate upon the application of either party, after hearing the parties thereon), an experimental meter, furnished with a suitable burner, capable of consuming five cubic feet of gas per hour, with other necessary apparatus for testing the illuminating power of the gas.

28. The examiner shall, on giving three hours' notice to the secretary or engineer of the company, have access at all times to such experimental meter, and when and so often as is necessary, or as he is so directed by the local authority appointing him, shall examine the illuminating power, and the purity of the gas supplied, and shall present to the local authority, so often as they require, a report stating the number

of examinations on which the report is founded, and the maximum, minimum, and average illuminating power and purity, or the illuminating power and purity from day to day, or at longer intervals, of the gas supplied during the whole period to which the report relates, with such other information and remarks thereon as may be deemed necessary.

29. Provided, that two or more local authorities, if they think fit, may join in providing the apparatus, machinery, and instruments, and in appointing and paying the examiner, and he shall make his reports to every local authority so joining in appointing and paying him.

30. The examiner, on payment to him of a fee of 10*s.* 6*d.* by any consumer, shall, at his request, examine and report to him on the illuminating power and the purity of the gas supplied as hereinbefore mentioned; and any consumer may make complaint to any magistrate with respect to the illuminating power or purity of the gas supplied to the complainant, and the magistrate may entertain and hear the complaint, and proceed thereon according to the provisions of this act.

31. Any magistrate may direct that notice be given to the complainant and the gas company to appear and be heard on the complaint at such time as he appoints, and each party shall thereupon appear and may be heard before a magistrate, by themselves, their counsel, attorneys, or agents.

32. Where, on the hearing, and whether or not the gas company have appeared, it appears to the magistrate that the complaint, or any part thereof, is well founded, he shall make an order declaring that the same is well founded, and ordering the gas company to pay any penalty or penalties thereby incurred, and to remove within a reasonable time the grounds of complaint, and he may by the order direct that any specific acts shall be done by the gas company for removing the grounds of complaint, and may make any order as to costs; and all orders so made shall be final and binding on all parties.

33. Where the gas company are served with any order so made, they shall, within the time limited by the order, remove the grounds of complaint thereby declared to be well founded, and pay the penalty or penalties, and the damages (if any) and costs (if any) thereby ordered to be paid by them.

34. The gas company, and their officers, agents, and servants, and where there is any complaint made, the complainant, shall afford to the examiner appointed by the local authority all reasonable facilities for the respective inspection, examination, and inquiry; and every person obstructing any such examiner so appointed in the exercise of his duties under this act shall for every such offence forfeit not exceeding 10*l.*

35. After the 31st December, 1860, no gas company shall, except under existing contracts, demand or take for any gas or five-light meter supplied by them any sum of money exceeding the rate or meter rent by this act authorised.

36. All contracts made or existing before the 1st January, 1860, between any of the gas companies included in this act and any local authority, for or relating to the supply of gas, shall terminate on the 1st February, 1862, and thereafter the provisions of this act in all particulars shall apply to such company: provided, that from the time of the passing of this act until the said 1st February, 1862, the provisions of this act relating to price, purity, and illuminating power of gas shall not apply to any such company unless such company shall elect to adopt them.

37. The gas company shall not charge a higher price by the 1000 cubic feet for gas supplied to any local authority than the lowest rate by the 1000 cubic feet from time to time charged by them to any private consumers, otherwise than by special contract in writing, in the district supplied by the gas company.

38. If any difference arise between the local authority and the gas company with respect to any alteration in the test, or to the rate to be charged for gas supplied or for lighting any public lamp, the difference shall be referred to, and be determined by, arbitration in the manner prescribed by the Companies Clauses Consolidation Act, 1845, with respect to the settlement of disputes by arbitration.

39. In case any consumer leave the premises where gas was supplied to him without paying to the gas company the

rate or meter rent due from him, the gas company shall not require from the next tenant of the premises payment of the arrears so left unpaid, unless the incoming tenant agreed with the defaulting consumer to pay the arrears; but the gas company shall, notwithstanding any such arrears, in the absence of collusion between the outgoing and incoming tenant, supply gas to the incoming tenant, as required by this act, on being required by him so to do.

40. No company shall advance the price of gas above the rate taken by such company on the 1st January, 1860, whenever such rate is at or above 4s. 6d. per 1000 cubic feet, unless there has been such increase in the cost of gas, or any other circumstances affecting the company, as will warrant such advance: provided always, that before raising the gas rate in any district the gas company supplying such district shall give notice of their intention to the local authorities of the district, and in some newspaper circulating within the district for two consecutive weeks at least, one month before such alteration in the gas rate shall be made; and in case any local authority shall, within such month, dissent from such alteration, it shall be determined by arbitration, in the manner hereinbefore mentioned, whether such alteration shall be allowed: provided always, that no gas company shall charge for common gas supplied by them any sum exceeding 5s. 6d. for every 1000 cubic feet, or for canal gas any sum exceeding 7s. 6d. for every 1000 cubic feet: provided also, that any company shall be at liberty to change the kind of gas from time to time supplied by such company, whether common or canal gas, on giving three months' notice of their intention so to do; and upon the expiration of such notice the company shall thenceforth supply gas pursuant thereto, under the provisions of this act, until any like notice shall be given for a further change; and when the company shall change the supply from canal gas to common gas, the rate shall be reduced so as not to exceed 4s. 6d. per 1000 cubic feet, except under the circumstances and in the manner hereinbefore set forth.

41. The said Secretary of State may at any time issue a form of accounts to be filled up by each of the said gas companies, and such accounts shall state precisely the amounts of the capital of each company, and the acts of Parliament or other authority under which the same is raised, and such other information as the said secretary may require, in order to enable him to ascertain the actual state and condition of the concerns of such company; and every gas company shall, after receiving notice in writing, signed by the said secretary, of the form so required by him to be filled up, within two months after the general meeting of the company fill up and forward to the said secretary an annual statement of accounts in the form so prescribed, and any company which shall fail to furnish such account shall be liable, on conviction before a magistrate, to forfeit any sum not exceeding 50l.; and such statement shall be laid by the Secretary of State before both Houses of Parliament every year.

42. Every gas company shall, within one year after the passing of this act, cause a map to be made of the district within which their mains or district mains then lie, on a scale not less than six inches to a mile, and shall cause to be marked thereon the line of all their then existing mains and district mains, and shall once in every year correct such map, and make such additions thereto as will shew the line of all their then mains and district mains as aforesaid.

43. Every map, or a copy thereof, so made by or for each company, with the date expressed thereon of the last time when it was so corrected, shall be deposited, certified by their secretary or clerk by writing under his hand to be a true copy thereof, with the respective clerks of the peace for the counties in which such mains lie, and who are hereby required to receive and keep in safe custody the same; and such maps so deposited shall at all reasonable times be open to the inspection of all local authorities and consumers, and their respective agents, and they respectively may take copies of or extracts from the same; and every gas company wilfully failing to comply with any of the requirements of this act with respect to maps, and every person having charge of such maps who shall refuse to allow any person to inspect and take copies of or extracts from such maps, shall for every such offence forfeit a sum not exceeding 10l.

44. Every clerk of the peace with whom any map shall be deposited under the provisions of this act may charge and

take the sum of 1s. for every inspection of such map, and the further sum of 2s. 6d. for every extract from or copy taken of such map.

45. If and whenever it appears to the Secretary of State that any of the provisions of this act have been violated or not complied with on the part of any gas company, or that the gas company are acting in a manner unauthorised by law, and if it appear to him that it would be for the public advantage that the gas company should be restrained from so acting, or compelled to do any act for remedying the wrongful act done by them, the Secretary of State may certify the same in writing to her Majesty's Attorney-General, and thereupon he, if he be so advised, shall proceed by information, bill, or action, or other such proceeding at law or in equity as the case requires, to restrain the wrongful acting, or to compel the doing of the acts for remedying the wrongful acts; provided always, that the Secretary of State shall not give the certificate at a period exceeding one year after the committing of the offence specified in the certificate.

46. Every penalty imposed by this act, the recovery and application of which is not otherwise specially provided for by this act, shall be recovered on summary conviction before a magistrate, and be enforced, accounted for, and paid to the receiver of the metropolitan police district, and shall be apportioned in the same manner as penalties or fines, other than fines upon drunken persons, or upon constables for misconduct, or for assaults upon police constables, are by the act of the 3 Vict., for regulating police courts in the metropolis, directed to be recovered, enforced, accounted for, paid, and applied; and every order or conviction of any magistrate in respect of any such penalty shall be subject to the like appeal, and upon the same terms, as is by that act provided in respect of any order or conviction of any magistrate; and every magistrate by whom any order of conviction is made under this act shall have the same power of binding over the witnesses examined, and the witnesses shall be entitled to the same allowance of expenses as they would be entitled to in case the order, conviction, and appeal were made under that act.

47. Every magistrate shall, for the purposes of this act, have full jurisdiction and full powers and authorities over the parties respectively, and with respect to making orders on the parties respectively and otherwise, and as to costs, and may issue every such summons, warrant, and other process, and may take such other proceedings, as he thinks requisite; and the service of any summons, notice, order, or other process in the matter on such person, or in such manner as a magistrate directs, shall be good service thereof; and every magistrate may proceed singly in the execution of this act in such manner as he thinks proper.

48. Nothing in this act contained shall extend or be construed to extend to authorise or empower any gas company to interfere with or abridge any of the rights or privileges of any company established for the supply of water to the inhabitants of any parish or place within the metropolis; and every gas company shall be answerable for any damage, spoil, injury, or mischief which shall be done to any of the pipes, works, or property of any such water company, or which shall or may be sustained by such water company by reason or in consequence of any act, matter, or thing to be done or executed by such gas company, or any of their servants, agents, or workmen.

49. Whenever any gas company, or their servants, agents, or workmen, shall dig or sink any trench for laying any new mains or pipes, other than service pipes, for the conveyance of gas or other apparatus near to which any pipe belonging to any water company for conveying water, or any branch or service pipe for the supply of water to any dwelling-house or buildings, shall be laid, such gas company, their servants, agents, or workmen, shall give four hours' previous notice thereof in writing to the manager or chief clerk, or secretary, or engineer of such water company, such notice to be delivered at the principal office of the company between the hours of ten in the morning and four in the afternoon, and shall, under the inspection of the manager or chief clerk, secretary, or engineer for the time being of such water company, protect and secure every such water pipe from any injury, and shall also repair any damage that shall be done to such pipe; and in default of repairing such damage the gas

company shall for each such default forfeit and pay to the secretary for the time being of such water company, for the use of the said water company, any sum not exceeding 5*l.*, and also the costs and expenses which shall have been incurred by the said water company in protecting and securing any such water pipe, or in repairing or making good any injury that may have been done thereto by the means aforesaid, such costs and expenses to be ascertained by any justice, and to be recovered in the same manner as any expenses or penalty under this act may be recovered.

50. All pipes hereafter to be laid by any gas company for the conveyance of gas shall be laid at the greatest practicable distance from the nearest part of any pipe then laid down by, or by order of, any water company for the conveyance of water, and, wherever the width of the carriageway or footpath will allow thereof, shall be laid at the distance of four feet at least from the nearest part of any such water pipe, unless in cases where it shall be unavoidably necessary to lay the gas pipe across or nearer to any water pipe, in which case the said gas pipe shall, wherever practicable, be laid over and above the said water pipe, at the greatest practicable distance therefrom, and shall form therewith a right angle, or as near thereto as the situation will admit; and in every such case the said gas pipe so crossing the said water pipe shall be at least nine feet in length, so that no joint of any gas pipe shall be nearer to any water pipe than four feet at the least, where the width of the road, street, square, market-place, lane, alley, passage, court, or other place will admit; and every such gas pipe so crossing the water pipe shall for the whole length thereof be sufficiently bedded in with good sound clay or other fit materials of a proper consistence, and well worked and rammed into the trench all round the said gas pipe; and in laying down any such gas pipe the gas company shall use such joints as are for the time being of the most improved description, for preventing the leakage of gas, and shall in no case join two or more gas pipes together previous to their being laid in the trench, but shall lay each pipe as near as may be in its place in the trench, and shall in such trench properly form the jointing with the other pipes to be added thereto with proper and sufficient materials; and shall also, wherever practicable, lay and well and sufficiently bed each joint of the main gas pipes, and also the joints or screws of the branch or service gas pipes connecting with the main gas pipes, and also the joints of the service or branch pipes for conveying the gas from the main gas pipes to the houses and other buildings, and all other joints, inlets, apertures, or openings which are or shall or may be made in any of the main gas pipes belonging to the gas company, in such manner and of such materials as shall, as far as reasonably practicable, prevent leakage.

51. Whenever the water which shall be supplied by any water company shall be contaminated or affected in any way whatsoever by the gas of any gas company, such gas company shall, within twenty-four hours next after notice thereof in writing, signed by any one of the directors or by the secretary for the time being of such water company, or by any person using the water of such water company, and left at the office of such gas company, cause measures to be taken effectually to prevent such gas from contaminating or affecting the water of such water company; and in case such gas company shall not, within forty-eight hours next after any such notice so left as aforesaid, use all reasonable means to effectually remove the cause of such complaint, and prevent all such contamination whereof notice shall be given as aforesaid, then and in every such case such gas company shall, on each complaint whereof notice shall be given as aforesaid, forfeit and pay to the secretary of such water company, for the use of such water company, the sum not exceeding 10*l.* for each day during which the water supplied by such water company shall remain contaminated or affected by the gas of such gas company; and every such penalty or forfeiture may be recovered for the use of such water company in the same manner as any other penalty or forfeiture imposed by this act may be levied and recovered.

52. And whereas it may become a question, upon such complaint as aforesaid, whether or not the water supplied by any water company within the metropolis be contaminated or affected by the gas of the gas company: be it enacted, that in every such case it shall be lawful for any such water company to dig to and about and to search and examine the mains, pipes, conduits, and apparatus of the gas company ad-

jacent to the pipes of such water company, for the purpose of ascertaining whether or not such contamination proceed or be occasioned by the gas of such gas company, giving twenty-four hours' previous notice in writing, signed by one of the directors or by the secretary for the time being of such water company, and left at the head office of such gas company, of the intention of such water company so to dig, search, and examine as aforesaid, and of the time and place or places when and where such digging, search, and examination is intended to be made; and if it shall appear that the said water has been contaminated, and that there has been any escape of gas whereby such contamination has been produced, then and in every such case the costs and expenses of the said digging, search, and examination, and of the repair of the street, road, or place which shall be taken up or disturbed, shall be borne and paid by such gas company, which costs and expenses shall be ascertained and determined, if necessary, by any justice, and may be levied and recovered in the same manner as any penalty or forfeiture imposed by this act may be levied and recovered: provided always, that if upon such examination it shall appear that such contamination has not arisen from any escape of gas from any of the mains, pipes, or conduits of the gas company to which such notice shall have been given, then and in every such case the water company by whom or on whose behalf such examination and search shall have been made shall bear and pay all the costs, charges, and expenses of and incident to such examination and search, and shall also make good to such gas company any damage which may be occasioned to their mains, pipes, conduits, or apparatus by such search, and also any injury or damage which may be done in or about any of the streets, roads, or places which shall be broken up or disturbed in such search, the amount of such damage to be ascertained and determined, if necessary, by any justice, and to be levied and recovered in the same manner as any penalty or forfeiture under this act may be levied and recovered.

53. All penalties or sums of money ordered and adjudged, within the city of London and the liberties thereof, to be paid under this act, and not otherwise appropriated, shall be payable to the chamberlain of the city of London, in aid of the expenses of the police of the said city.

54. Nothing in this act contained shall avoid, prejudice, or impair any of the powers now exercised by or vested in the Metropolitan Board of Works, or in the commissioners of sewers of the city of London and the liberties thereof, or any powers now vested in any local authority within the metropolis, or any powers now exercised or possessed in respect of the manufacture or supply of gas within the metropolis by any railway company, or by any other person or persons making or supplying gas for his or their own use, and not making or supplying gas to the public as a trade or business: provided, that if the said local authority shall refuse or delay their consent to any company to lay down mains or pipes in accordance with the provisions of this act, it shall be lawful for the said Secretary of State, under his hand, to authorise the same to be laid down without such consent; and after the date of the application by such company to the said Secretary of State for such consent no penalty shall be incurred by any default of such company, so far as it is occasioned by such refusal only.

55. Provided, that no special remedy or provision for giving relief to any person given by this act shall prejudice or diminish the general jurisdiction of any of her Majesty's superior courts of law or equity over or with respect to the acts or defaults in respect of which the special remedies or provisions are so given.

56. The costs, charges, and expenses of and incident to the passing of this act, and preliminary thereto, shall be paid by the Metropolitan Board of Works out of such funds as may be and shall be levied by their authority from the several vestries and district boards, in proportion to their annual rateable value, and such amount shall be included in the precept of the Metropolitan Board under the authority of the act of the 18 & 19 Vict. c. 120, for the local management of the metropolis.

57. All the expenditure from time to time made or incurred by any local authority under the authority of this act may and shall be defrayed by the local authority out of any rate raised under the provisions of the act of the 18 & 19 Vict. c. 120, for the local management of the metropolis.

**SCHEDULE TO WHICH THE FIFTH SECTION OF THE  
FOREGOING ACT REFERS.**

<i>Name of Gas Company.</i>	<i>Special Act or Instrument of Incorporation.</i>	<i>District.</i>
The Crystal Palace District Gas Company.	The Crystal Palace District Gas Company's Act, 1858.	The district defined by their said special act.
The Woolwich, Plumstead, and Charlton Consumers' Gas Company.	The Woolwich, Plumstead, and Charlton Consumers' Gas Act, 1855.	The district defined by their said special act.
The Woolwich Equitable Gas-light and Coke Company.	The Woolwich Equitable Gas Company's Act, 1855.	The district defined by their said special act.
The Wandsworth and Putney Gas-light and Coke Company.	The Wandsworth and Putney Gas Act, 1856.	The district defined by their said special act.
The Brentford Gas Company.	The Brentford Gas Act, 1858.	The district now actually supplied by the company.
The Victoria Docks Gas Company.	The Victoria Docks Gas Act, 1857.	The district defined by their said special act.
The Eltham Gas-light and Coke Company, Limited.	Articles of association under the Joint-stock Company's Act, 1856.	The parish of Eltham.
The West Ham Gas Company.	The West Ham Gas Company's Act, 1856.	The district defined by their said special act.
Mitcham, Merton, and Tooting Gas Company.	Articles of association under the 7 & 8 Vict. c. 110.	The parishes and villages of and adjacent to Mitcham, Merton, and Tooting.

**CAP. CXXVII.**

An Act to amend the Laws relating to Attornies, Solicitors, Proctors, and Certificated Conveyancers.

[28th August, 1860.]

**Sect. 1. Interpretation of terms.**

2. *Persons having taken degrees at certain universities may be admitted after three years' service.*
3. *Persons having been at the Bar may be admitted after three years' service.*
4. *Persons having been bond fide clerks to attornies, solicitors, or proctors for ten years may be admitted after three years' service.*
5. *Judges may make regulations for persons who have passed certain examinations, before articles, to be admitted after four years' service.*
6. *Sect. 6 of stat. 6 & 7 Vict. c. 73, extended to persons articulated for four years only.*
7. *Articles of clerkship to be produced to the registrar, and entered within three months from enrolment.*
8. *Judges may require examination in general knowledge, either before articles or before admission, with power to dispense therewith in special cases.*
9. *Judges may require an examination in legal knowledge during articles.*
10. *Articled clerks not to hold other office or employment.*
11. *Examination before admission to extend to all matters of business usually transacted or performed by attornies or solicitors.*
12. *Where the three, four, or five years expire in any vacation, examination may take place in term preceding such vacation.*
13. *Persons not to be admitted in palatine courts without examination.*
14. *Attornies or solicitors of the courts of Lancaster and Durham may be admitted to Court of Chancery and superior courts of law at Westminster.*
15. *Persons admitted as writers to the signet, &c. may be inrolled as attornies and solicitors.*
16. *Provision as to admission to offices of solicitors who have been utter barristers.*
17. *Officers having custody of roll of attornies and solicitors to transmit to registrar copies of enrolments at the end of each term.*
18. *Registrar's certificates to be made the stamped certificates of the Commissioners of Inland Revenue.*
19. *The amount of stamp duty to be determined by the place of business.*

20. *The declaration, on applying for the registrar's certificate, to be in duplicate, and one copy to be left with the commissioners. Fees for registrar's certificate and for the examinations.*
21. *Certificate to be entered with the registrar; the commissioners to supply particulars where stamped before the 2nd January. Where stamped after the 1st January, certificate to be produced by the party, to be entered within a month.*
22. *When certificate to bear date, and when to determine. Law List to be prima facie evidence.*
23. *In case of neglect for a year to renew certificate, order of court or judge necessary.*
24. *Rule for striking attornies off the roll to be entered with the registrar.*
25. *An attorney struck off the roll of one of the courts to be struck off the rolls of other courts.*
26. *Penalty for wrongfully acting as an attorney or solicitor.*
27. *Power to Court of Chancery to order payment of interest on costs in certain cases.*
28. *Power to courts of justice to charge property recovered with payment of costs.*
29. *Provision for costs in matters of lunacy in case of death.*
30. *All future authorities to administer oaths or take acknowledgments to be registered.*
31. *Provisions for registration of existing authorities.*
32. *How orders, &c. authorised by this act may be made.*
33. *Saving provisions enabling other than attornies to act.*
34. *Stamped certificates not to be issued to conveyancers under the bar without the benchers' annual permission.*
35. *Act to extend to England and Wales.*
36. *The 6 & 7 Vict. c. 73, and this act to be as one.*

The preamble recites stats. 6 & 7 Vict. c. 73; 7 & 8 Vict. c. 86; and 14 & 15 Vict. c. 88.

Sect. 1. In the construction of this act, unless there be something in the subject or context repugnant to such construction, the word "attorney" shall mean attorney of one or more of the superior courts of law at Westminster, or of the Court of Common Pleas of the county palatine of Lancaster, or of the Court of Pleas of the county palatine of Durham; the word "solicitor" shall mean solicitor of the High Court of Chancery; the word "registrar" shall mean registrar of attornies and solicitors; the expression "the roll of attornies and solicitors kept by the registrar" shall mean the roll or book, rolls or books of attornies and solicitors, which, by the first hereinbefore-mentioned act, the registrar is required to keep; and the expression "the Incorporated Law Society" shall mean the Incorporated Society of Attornies, Solicitors, Proctors, and others, not being Barristers practising in the courts of law and equity of the United Kingdom.

2. Sect. 7 of the first hereinbefore-mentioned act shall be repealed, and any person having taken the degree of Bachelor of Arts or Bachelor of Laws in the University of Oxford, Cambridge, Dublin, Durham, or London, or in the Queen's University in Ireland, or the degree of Bachelor of Arts, Master of Arts, Bachelor of Laws, or Doctor of Laws in any of the universities of Scotland, none of such degrees being honorary degrees, and who at any time after having taken such degree, and either before or after the passing of this act, has been bound by and has duly served under articles of clerkship to a practising attorney or solicitor for the term of three years, and has been examined and sworn in manner directed by the first hereinbefore-mentioned act and by this act, may be admitted and inrolled as an attorney or solicitor, and service for any part of the said term not exceeding one year with the London agent of such attorney or solicitor in the business, practice, or employment of an attorney or solicitor, either by virtue of any stipulation in such articles, or with the permission of such attorney or solicitor, shall be and be deemed to have been good service under such articles for such part of the said term; and where any person has before the passing of this act, and at any time after having taken such degree, been bound as aforesaid for five years, he may, after having duly served three years of such term in such manner as would have been required if he had been bound

for three years only, and having been examined and sworn as aforesaid, and with the consent in writing (indorsed on his articles of clerkship) of the attorney or solicitor to whom he may be bound, to the immediate determination of his articles of clerkship, be admitted and inrolled as an attorney or solicitor; and where such consent is given as aforesaid, and acted upon under this provision by the person hereby made eligible to be admitted and inrolled as aforesaid, the articles of clerkship shall be deemed to have determined as if they had determined by effluxion of time.

3. Every person who has been called to the degree of utter barrister in England, and who, before becoming such barrister, has been bound by contract in writing to serve as a clerk for the term of five years, or who, after ceasing to be a barrister, has been bound by contract in writing to serve as a clerk, for the term of three years, to a practising attorney or solicitor, and has in either of the said cases continued in such service for the term of three years, and during the whole of such three years served in such manner as is hereinbefore required in the case of persons who have taken degrees in the said universities, and having been examined and sworn as aforesaid, after the expiration of such term of three years, (the examination and swearing taking place, in the first-mentioned case, after the person has ceased to be a barrister), may be admitted and inrolled as an attorney or solicitor: provided always, that in the case of any such person as aforesaid who has been bound for five years, it shall be necessary for such term to be determined with consent, as hereinbefore provided in the case of persons having taken degrees, who may have been bound for five years before the passing of this act.

4. Any person who, either before or after the passing of this act, shall for the term of ten years have been a *bonâ fide* clerk to an attorney, solicitor, or proctor, or attorneys, solicitors, or proctors, and during that term shall have been *bonâ fide* engaged in the transaction and performance, under the direction and superintendence of such attorney, solicitor, or proctor, or attorneys, solicitors, or proctors, of such matters of business as are usually transacted and performed by attorneys, solicitors, and proctors, and who shall produce to the examiners satisfactory evidence that he has faithfully, honestly, and diligently served as such clerk, and who after the expiration of the said term of ten years has been bound by, and has duly served under, articles of clerkship to a practising attorney, solicitor, or proctor for the term of three years, and has been examined and sworn in manner directed by the first hereinbefore-mentioned act and by this act, may be admitted and inrolled as an attorney and solicitor or proctor, and service for any part of the said term not exceeding one year with the London agent of such attorney, or solicitor, or proctor, in the proper business, practice, or employment of an attorney, solicitor, or proctor, either by virtue of any stipulation in such articles, or with the permission of such attorney, solicitor, or proctor, shall be and be deemed to have been good service under such articles for such part of the said term; and where any such person has, before the passing of this act, been bound for five years, he may, after having duly served three years of such term in such manner as would have been required if he had been bound for three years only, and having been examined and sworn as aforesaid, and with the consent in writing (indorsed on his articles of clerkship) of the attorney, solicitor, or proctor to whom he may be bound, to the immediate determination of his articles of clerkship, be admitted and inrolled as an attorney and solicitor; and where such consent is given as aforesaid, and acted upon under this provision by the person hereby made eligible to be admitted and inrolled as aforesaid, the articles of clerkship shall be deemed to have determined as if they had determined by effluxion of time.

5. The Lords Chief Justices of the Courts of Queen's Bench and Common Pleas, and the Lord Chief Baron of the Court of Exchequer, jointly with the Master of the Rolls, may, if they think fit, from time to time, by regulations to be made by them, direct that any person having successfully passed any examination now or hereafter to be established in any of the universities hereinbefore mentioned, and to be specified in such regulations, may be admitted and inrolled as an attorney or solicitor, after having been subsequently bound by, and having duly served under, articles of clerkship to a practising attorney or solicitor for the term of four years, and been examined and sworn as aforesaid; and the said

judges may from time to time revoke or alter such regulations as they think fit, but not so as to allow a less term of service than four years.

6. Sect. 6 of the first hereinbefore-mentioned act shall apply as well to any person bound as therein mentioned as a clerk to a practising attorney or solicitor for the term of four years only, where under the said regulations that term is sufficient, as to any person so bound for the term of five years, and shall be read and construed accordingly.

7. The contract or articles whereby any person shall be bound to serve as a clerk to any attorney or solicitor, and also any assignment thereof, shall, within three months after the same has or have been respectively inrolled and registered pursuant to the first hereinbefore-mentioned act, be produced to the registrar, who shall enter the names of the parties to and the date of such contract or articles, and also of such assignment, if any, and the term of service, in a book to be kept for that purpose; and the registrar shall mark such contract or articles, and such assignment, if any, as having been so produced and entered, with the date thereof, and shall be entitled to receive a fee of 5s. for the entry of such contract or articles, and the like fee for such assignment, if any; and such book shall be open to public inspection during office hours, without fee or reward; and in case such contract or articles, and such assignment, if any, be not so produced to and entered by the registrar as aforesaid within such three months as aforesaid, the service of the clerk shall be reckoned to commence from the date of such production and entry, unless upon an application, of which notice shall be given to the registrar, one of the superior courts of law at Westminster, or a judge thereof, or a judge of the Court of Chancery, shall otherwise order.

8. The Lords Chief Justices of the Courts of Queen's Bench and Common Pleas, and the Lord Chief Baron of the Court of Exchequer, jointly with the Master of the Rolls, may from time to time make regulations for the examination in such branches of general knowledge as they may deem proper of all persons (not having taken degrees, or successfully passed such university examinations as aforesaid) hereafter becoming bound under articles of clerkship to attorneys or solicitors; and the said judges, by such regulations, may require such examination to be passed either before persons so become bound, or at any time before their admission as attorneys or solicitors, as to the said judges may seem fit, and the said judges may from time to time revoke or alter any such regulations as they may think fit, and may from time to time appoint examiners for conducting such examination as aforesaid; and no person required to pass such examination shall be capable of being bound as aforesaid where such examination is required to be passed before being bound, or of being admitted as an attorney or solicitor where such examination is permitted to be passed at any time before admission, unless, before being bound or before being admitted, (as the case may require), he obtain from the examiners a certificate of having satisfactorily passed such examination: provided always, that the said judges, or any one or more of them, may, where, under special circumstances, they or he see fit so to do, dispense with compliance with such regulations entirely or partially, or subject to any such conditions as to them or him may seem fit.

9. The Lords Chief Justices of the Courts of Queen's Bench and Common Pleas, and the Lord Chief Baron of the Court of Exchequer, jointly with the Master of the Rolls, may from time to time, if they see fit, make regulations for the examination of persons hereafter becoming bound under articles of clerkship as aforesaid, at such times or periods of their service under such articles as the said judges may think fit and direct, in order to ascertain the progress made by such persons in acquiring the knowledge necessary for rendering them fit and capable to act as attorneys or solicitors; and such examination shall be conducted by the examiners appointed under the first herein-mentioned act, or such other examiners as the said judges may from time to time appoint in this behalf; and the said judges may, by such regulations, in the case of persons who fail to pass such examination to the satisfaction of the examiners, postpone, either for a definite time or such time as the said examiners may in each case think proper, and either conditionally or otherwise, the examination required to be passed at the expiration of the term of service under articles, and before admission.

10. No person hereafter bound by articles of clerkship to



any attorney or solicitor shall, during the term of service mentioned in such articles, hold any office or engage in any employment whatsoever other than the employment of clerk to such attorney or solicitor, and his partner or partners, if any, in the business, practice, or employment of an attorney or solicitor, save as by the first hereinbefore-mentioned act or this act otherwise provided; and every person bound as aforesaid shall, before being admitted an attorney or solicitor, prove, by the affidavit required under sect. 14 of the first hereinbefore-mentioned act, that he has not held any office, or engaged in any employment, contrary to this enactment; and the form of such affidavit as aforesaid shall be varied by such addition thereto as may be necessary for this purpose.

11. The examination which, under the first hereinbefore-mentioned act or this act, is authorised and required touching the fitness and capacity of a person to act as an attorney or as a solicitor, as the case may be, after the expiration of the term of his service under articles, and before his admission as an attorney or solicitor, shall be deemed to include such examination, touching his fitness and capacity to act in matters of business usually transacted or performed by attorneys or solicitors, as the examiners for the time being deem proper, subject nevertheless to any rules, orders, or regulations for conducting the said examination to be from time to time made in manner provided by the first hereinbefore-mentioned act.

12. Whenever any of the periods of three years, four years, and five years, mentioned in this act or in the first hereinbefore-mentioned act, (whether the same period shall have commenced before or after the passing of this act), shall expire in any vacation, then and in such case any person whose period of clerkship shall so expire shall be at liberty to pass his examination in the term immediately preceding the said vacation; and at any time in or after such vacation, and after the said period of clerkship shall have expired, the Master of the Rolls, as to the Court of Chancery, and any one of the judges, as to the courts of common law at Westminster, on being satisfied, by affidavit or otherwise, that the period of clerkship of such person has expired, may proceed to administer to him the oath mentioned in the first hereinbefore-mentioned act and the oath of allegiance, and may do all other acts necessary for or towards the admission and enrolment of such person as an attorney and solicitor, as provided in the said last-mentioned act.

13. No person hereafter bound by articles of clerkship to any attorney of the Court of Common Pleas of the county palatine of Lancaster, or of the Court of Pleas of the county palatine of Durham, shall be capable of being admitted and enrolled as an attorney of such respective court, unless, after the expiration of his term of service, he have been examined touching his articles and service, and his fitness and capacity to act as an attorney of her Majesty's superior courts of law at Westminster, or a solicitor of the High Court of Chancery, in like manner as is required before admission as an attorney of the said courts of law, or one of them, or a solicitor of the Court of Chancery, and the judge or judges of such respective court of the county palatine of Lancaster or Durham be satisfied by such examination, or the certificate of the examiners, of his being qualified to act as an attorney or solicitor: provided always, that the enactments contained in the 12th section of this act shall extend and apply, *mutatis mutandis*, to persons hereafter bound by articles of clerkship to attorneys of the Court of Common Pleas of the county palatine of Lancaster and the Court of Pleas of the county palatine of Durham respectively, and to the judges of those courts respectively.

14. All persons who, previously to the passing of this act, shall have been duly admitted and enrolled attorneys or solicitors of the courts of the counties palatine of Lancaster and Durham, or either of them, shall and may be admitted and enrolled attorneys and solicitors of the High Court of Chancery, and in her Majesty's superior courts of law at Westminster, in pursuance of the provisions of this act, without further examination, upon payment of such fees and duty as by law required: provided always, that such admission and enrolment be perfected on or before the first day of Trinity Term, 1861.

15. Every person who has been admitted and enrolled as a writer to the signet, or as a solicitor in the supreme courts of Scotland, or as a procurator before any of the sheriff courts

of Scotland, and who, after being so admitted and enrolled, has been bound by, and has duly served under, articles of clerkship in England or Wales to a practising attorney or solicitor for the term of three years, and has been examined and sworn in manner directed by the first hereinbefore-mentioned act, and by this act, may be admitted and enrolled as an attorney and solicitor; and service for any part of the said term, not exceeding one year, with the London agent of such attorney or solicitor, in the proper business, practice, or employment of an attorney or solicitor, either by virtue of any stipulation, or with the permission of such attorney or solicitor, shall be and be deemed to have been good service under such articles for such part of the said term.

16. In every case where, by statutory provision or by custom, the qualification of a solicitor or attorney to hold any office is his having been admitted and enrolled as an attorney or solicitor a prescribed period, every person who either before the passing of this act has been, or hereafter shall be, called to the degree of utter barrister in England, and who, having been subsequently disbarred, has been admitted and enrolled as an attorney or solicitor, shall, in lieu of such qualification as aforesaid, be qualified to hold any such office on the completion of the prescribed period, to be reckoned from the date of such person being called to the degree of an utter barrister in England.

17. The Masters or other officers having respectively the custody of the rolls or books kept for the enrolment of attorneys or solicitors in the superior courts of law at Westminster, the Court of Chancery, the court of the duchy chamber of Lancaster at Westminster, and the courts of the counties palatine of Lancaster and Durham, shall, within seven days after the end of every term, transmit to the registrar, at the expense of such registrar, a copy, under the hands of such Masters or officers respectively, or under the seals of their respective courts, of such rolls or books, so far as the same relate to attorneys or solicitors enrolled within such term.

18. From and after the 15th November next after the passing of this act, instead of separate annual stamped certificates for attorneys and solicitors to be issued by the Commissioners of Inland Revenue, as now required by law, the stamp duties chargeable on such certificates shall be denoted upon the registrar's certificates; and upon any such certificate being stamped accordingly, and the date of the payment of the duty certified by the proper officer, by writing under his hand, or by other sufficient means, the same shall be and be deemed the proper stamped certificate required by law to be taken out by the attorney or solicitor named therein.

19. For determining the rate of stamp duty payable on the certificate, the place or places where the attorney or solicitor shall carry on his business shall be deemed to be the place or places of his residence within the meaning of the acts relating to the stamp duties on certificates; and after the said 15th November the declaration required to be delivered to the registrar for the purpose of obtaining his certificate, and also the certificate to be granted thereon, shall accordingly specify the place or places where the attorney or solicitor by or for whom the certificate is required so carries on his business, and shall respectively be in the forms (A.) and (B.) contained in the schedule to this act.

20. The declaration required to be made for the purpose of obtaining the registrar's certificate shall be made out and signed in duplicate, and one of such duplicates shall be delivered to and left with the registrar, and the other produced to him, and the duplicate so produced, together with the certificate granted on such declaration, shall be left with the commissioners, or their proper officer, on applying to have the certificate stamped, and shall be and be deemed the note in writing required by law to be delivered to the commissioners, or their officer, to entitle the attorney or solicitor to a stamped certificate; and for every such certificate issued by the registrar, and the previous requisite search and inquiry, there shall be paid to him the sum of 5s., and the registrar shall yearly render an account of all sums of money received in respect thereof, and of the application of the same, to the Lords Chief Justices of the Courts of Queen's Bench and Common Pleas, and the Lord Chief Baron of the Court of Exchequer, jointly with the Master of the Rolls, who may from time to time, by order under their hands, diminish such sum as they think fit; and the said Lords Chief Justices and Lord Chief Baron, jointly with the Master of the Rolls, by



order under their hands, may also fix and regulate the fees to be taken for the several examinations by this act authorised to be instituted, and may increase or diminish such fees from time to time: provided always, that a copy of such account so rendered as aforesaid shall be open to the inspection of any attorney or solicitor at the hall of the Incorporated Law Society.

21. For enabling the registrar to enter upon the roll of attorneys and solicitors kept by him a note or minute of the time of stamping every certificate, the commissioners shall, whenever the same shall be required, after the 15th February in every year, furnish to the registrar an account of the certificates issued between the 15th November and the 2nd January preceeding for which during the same period the stamp duties have been paid, specifying the names and places of business of the parties respectively to or for whom the same have been issued, and the dates of payment of the stamp duties; or, in lieu of such account, the commissioners, at their option, shall return to the registrar the aforesaid duplicate declarations to which such certificates relate, with a note or memorandum on each of them specifying the date of payment of the stamp duty for the certificate; and the registrar shall, upon such account being furnished, or such duplicate declarations being returned to him as aforesaid, enter such note or minute as aforesaid; and in order to such entry being made in respect of certificates stamped at any other time, every such last-mentioned certificate shall, within a month of the payment of the duty, be produced to the registrar, who shall thereupon make such entry, and signify the same by a note or memorandum upon the certificate; and every such last-mentioned certificate which shall not be so produced within the said period shall have effect only as a qualification to practise from the time when it shall be produced: provided, that it shall be lawful for the Master of the Rolls in the case of a solicitor, or one of the superior courts of law at Westminster, or one of the judges thereof, in the case of an attorney, at any time to make an order directing that any certificate not so produced shall have effect upon and from the time of stamping the same, or any subsequent period.

22. Every certificate issued by the registrar between the 15th November and the 16th December in any year shall bear date on the 16th November, and shall take effect on that day for all purposes, provided it be stamped before the 16th December; and in every such case the 16th November shall, for the purpose of this act, be deemed to be the date of the payment of the duty; but if such certificate be not so stamped, it shall take effect, as regards the qualification to practise, on the day on which it is stamped; and every certificate issued at any other time shall bear date on the day on which it is issued, and subject to the provision herein contained relating to certificates stamped after the 1st January in any year, and not produced within a month to be entered by the registrar, shall take effect, as regards such qualification, on the day on which it is stamped; and every certificate shall be and continue in force from the day on which it shall take effect as aforesaid until the 15th November next following, inclusive, and no longer: and any list of attorneys, solicitors, and conveyancers, purporting to be published by the authority of the Commissioners of Inland Revenue, and to contain the names of attorneys, solicitors, and conveyancers who have obtained stamped certificates for the current year on or before the 1st January in the same year, shall, until the contrary be made to appear, be evidence in all courts, and before all justices of the peace and others, that the persons named therein as attorneys, solicitors, or conveyancers, holding such certificates as aforesaid for the current year, are attorneys, solicitors, or conveyancers holding such certificates; and the absence of the name of any person from such list shall, until the contrary be made to appear, be evidence as aforesaid that such person is not qualified to practise as an attorney, solicitor, or conveyancer under a certificate for the current year; but in the case of any person, being an attorney or solicitor, whose name does not appear in such list, an extract from the roll of attorneys and solicitors kept by the registrar, certified under the hand of the secretary of the Incorporated Law Society, (while such society performs the duties of registrar), or of the registrar for the time being, shall be evidence as aforesaid of the facts appearing in such extract; and in the case of any person, being a conveyancer, whose name does not appear on such list, the fact of his being so shall be

proved in the way in which it is now by law required to be proved.

23. If any attorney or solicitor, after having at any time taken out a stamped certificate, shall, for the space of a whole year from and after the expiration thereof, have neglected to renew the same for the following year, the registrar shall not afterwards grant a certificate to such attorney or solicitor, except under an order of the Master of the Rolls in the case of a solicitor, or of one of the superior courts of law at Westminster, or of one of the judges thereof, in the case of an attorney; and it shall be lawful for the Master of the Rolls, or such court or judge, to direct the registrar to issue a certificate to such person upon such terms and conditions as he or they shall think fit.

24. Where the name of any attorney or solicitor is ordered to be struck off the roll of attorneys or solicitors of any court, on his own application, or on the application of any other person, the rule or order for that purpose shall forthwith, and before the same is acted upon, be produced to the registrar, and the registrar shall enter a note or minute of such rule or order in connexion with the name of such attorney or solicitor on the roll of attorneys and solicitors kept by the registrar, and shall strike such name off such roll, and shall mark such rule or order as having been entered.

25. The name of every person hereafter struck off the roll of attorneys of any of the superior courts of law at Westminster by the rule of any of such courts, or off the roll of solicitors of the Court of Chancery by order of any judge of that court, shall, upon production of an office copy of such rule or order, and an affidavit of the identity of the person named therein, to the proper officer of every or any other of the said courts of which such person is an attorney or solicitor, be struck off the roll of such court; and in case any such person be at any time thereafter restored to the roll by the rule of the court, or order of any judge of the court, by the rule of which or the order of a judge of which his name was struck off such roll, he shall, upon production of an office copy of the rule or order so restoring him, with an affidavit of the identity of the person named therein, to the proper officer of every or any such other court, be restored to the roll thereof without payment of any fee or fine whatsoever.

26. Every person who acts as an attorney or solicitor contrary to the enactment in sect. 2 of the first hereinbefore-mentioned act, or who in his own name, or in the name of any other person, in anywise acts as a proctor in or with respect to any proceeding in the Court of Probate or the Court for Divorce and Matrimonial Causes, without being duly qualified so to act, shall be deemed guilty of a contempt of the court in which the action, suit, cause, matter, or proceeding in relation to which he so acts is brought, had, or taken, and may be punished accordingly, and shall be incapable of maintaining any action or suit for any fee or reward for or in respect of anything done or any disbursement made by him in the course of so acting, and shall, in addition to any other penalty or forfeiture and to any disability to which he may be subject, forfeit and pay for every such offence the sum of 50*l.*, to be recovered, with full costs of suit, by action brought, with the sanction of her Majesty's Attorney-General, in the name of the Incorporated Law Society, in any of the superior courts of law at Westminster, or in any county court, and such penalty shall be applied in like manner as fines imposed for practising without a stamped certificate are now by law applicable.

27. Whenever a decree or order is made by the Court of Chancery, in which the payment of any costs previously taxed, either in the suit or proceeding in which such decree or order is made, or in any other suit or proceeding, is ordered, and whether the certificate of such previous taxation have been made before the passing of this act, or be made thereafter, it shall be lawful for the court or judge making such decree or order to order and direct the amount of such costs, as taxed, including the costs of taxation as ascertained by the said certificate, to be paid, with interest thereon at the rate of 4*l.* per cent. per annum from the date of the certificate, the amount of such interest to be verified by affidavit, and to be payable and recoverable out of the same fund or in the same manner as the amount of such costs.

28. In every case in which an attorney or solicitor shall be employed to prosecute or defend any suit, matter, or proceeding in any court of justice, it shall be lawful for the court

or judge before whom any such suit, matter, or proceeding has been heard, or shall be depending, to declare such attorney or solicitor entitled to a charge upon the property recovered or preserved, and upon such declaration being made, such attorney or solicitor shall have a charge upon and against, and a right to payment out of, the property, of whatsoever nature, tenure, or kind the same may be, which shall have been recovered or preserved through the instrumentality of any such attorney or solicitor, for the taxed costs, charges, and expenses of or in reference to such suit, matter, or proceeding; and it shall be lawful for such court or judge to make such order or orders for taxation of and for raising and payment of such costs, charges, and expenses out of the said property as to such court or judge shall appear just and proper; and all conveyances and acts done to defeat, or which shall operate to defeat, such charge or right, shall, unless made to a bona fide purchaser for value without notice, be absolutely void and of no effect as against such charge or right: provided always, that no such order shall be made by any such court or judge in any case in which the right to recover payment of such costs, charges, and expenses is barred by any Statute of Limitations.

29. In every case in which an attorney or solicitor has been or shall be employed to prosecute or oppose any inquiry whether a person is a lunatic, idiot, or of unsound mind, and incapable of managing himself or his affairs, or in or about any proceedings consequent upon such inquiry, and the costs of such attorney or solicitor have not been paid in the lifetime of such person, it shall be lawful for the Lord High Chancellor or the Lords Justices, or other the person or persons intrusted by her Majesty with the care and commitment of the custody of the persons and estates of persons found idiot, lunatic, or of unsound mind, to make such and the like orders, and to exercise the like power and authority for taxation of, and for raising and payment of, such costs, after the death of such person, as could or might have been exercised or made in his lifetime; and such orders and proceedings shall be as valid and effective to all intents and purposes as if made in the lifetime of the lunatic: provided always, that it shall not be lawful for the court or judge to make any such order but within six years next after the right to recover such costs, charges, and expenses shall have accrued.

30. Every authority granted after the passing of this act to any attorney to administer oaths and take declarations and affirmations in matters depending in any of the superior courts of law at Westminster, or in the court of the duchy chamber of Lancaster at Westminster, or in any of the courts of the counties palatine of Lancaster and Durham, and every authority granted after the passing of this act to any solicitor to administer oaths and take declarations, affirmations, and attestations of honour in Chancery, and whether any such authority as aforesaid be to act in England or to act out of England, and every appointment, made after the passing of this act, of any attorney or solicitor under sect. 81 of the 3 & 4 Will. 4, "for the abolition of fines and recoveries, and for the substitution of more simple modes of assurance," to be a perpetual commissioner for taking acknowledgments of married women under that act, shall, before any such authority or appointment is acted upon, be brought to the registrar by the person to whom the same is granted, or some person on his behalf, and the registrar shall, in books to be kept for that purpose, enter the particulars of every such authority or appointment, and for the entry of every such authority or appointment the registrar shall be paid, by or on behalf of the person having such authority or appointment, the sum of 1s., and the registrar shall mark such authority or appointment as having been entered, and with the date of the entry, and such books shall at all times be open to public inspection during office hours without fee or reward.

31. For enabling the registrar to form a complete register of all such authorities and appointments as aforesaid, as well those granted or made before the passing of this act as those granted or made thereafter, the principal secretary of the Lord Chancellor, or other the officer having the care and custody of the lists of authorities now in force for the purposes aforesaid, so far as they relate to the Court of Chancery, and the clerks of the Lords Chief Justices of the Courts of Queen's Bench and Common Pleas, and of the Lord Chief Baron of the Court of Exchequer, or other the officers having the care and custody of the lists of authorities now in force for the purposes

aforesaid, so far as they relate to such courts respectively, and the officers of the court of the duchy chamber of Lancaster at Westminster, and the courts of the counties palatine of Lancaster and Durham, having the care and custody of the lists of authorities now in force for the purposes aforesaid, so far as they relate to such courts respectively, and the officer of the Court of Common Pleas with whom the certificates of the said acknowledgments of married women are lodged, so far as regards all appointments now in force for taking the said acknowledgments, shall severally, at the expense of the registrar, prepare and transmit to such registrar, with all convenient speed after the passing of this act, a list of the persons having such authorities and appointments as aforesaid, with the particulars thereof, and the places of business of such persons, and the registrar shall enter the particulars of all such authorities and appointments now in force in books to be kept for that purpose, which shall be open to inspection as aforesaid.

32. All regulations and acts authorised by this act to be made or done by the Chief Justices of the Courts of Queen's Bench and Common Pleas, and the Chief Baron of the Court of Exchequer, jointly with the Master of the Rolls, may be made or done by any two of them, the said Chief Justices and Chief Baron, jointly with the Master of the Rolls.

33. Nothing in this act shall extend to repeal, prejudice, or affect any provision in any act of Parliament in anywise enabling any person other than an attorney or solicitor to conduct, defend, or otherwise act in relation to any suit, matter, or proceeding.

34. From and after the 31st October next after the passing of this act it shall not be lawful for the Commissioners of Inland Revenue, or any of their officers, to grant or issue in any year to any person any such stamped certificate as is required to be taken out by every person who after the passing of this act shall become a member of one of the four Inns of court in England, practising under the bar as a conveyancer, unless and until he have left with the said commissioners or their proper officer an order of the benchers of the Inn of court of which the applicant is a member, granting him permission for that year to take out such certificate or a copy of such order certified under the hand of their treasurer, sub-treasurer, or steward: provided always, that this clause shall not extend or apply to any person who, at the time of the passing of this act, shall be lawfully practising as a certificated conveyancer.

35. This act shall only extend to England and Wales, save as herein otherwise expressly provided.

36. The first hereinbefore-mentioned act and this act shall be construed together as one act.

#### SCHEDULES TO WHICH THIS ACT REFERS.

##### SCHEDULE (A.)

##### *Form of Registrar's Certificate.*

Pursuant to an act passed in the session of Parliament holden in the — and — years of the reign of Queen Victoria, intitled [*title of this act*], the Incorporated Law Society, [*or the name of the registrar for the time being*], the registrar of attorneys and solicitors appointed under the act of the session holden in the sixth and seventh years of Queen Victoria, "for consolidating and amending several of the laws relating to attorneys and solicitors practising in England and Wales," hereby certifies, that —, attorney at law, [*or solicitor in Chancery, as the case may be*], whose place [*or places*] of business is [*or are*] at —, hath this day delivered and left with the secretary of the said society [*or the said, the name of the registrar for the time being*] a declaration in writing, signed by the said attorney [*or solicitor*], [*or by his partner, or by his London agent on his behalf, as the case may be*], containing his name, and place or places of business, and the court or one of the courts of which he is admitted an attorney or solicitor, together with the term and year in or as of which he was so admitted; and the said society [*or the said, the name of the registrar for the time being*] hereby further certifies, that the said attorney [*or solicitor*] is duly enrolled in the Court of Queen's Bench at Westminster, [*or as the case may be*], [*or a solicitor in the High Court of Chancery*], and is entitled to practise as such attorney or solicitor, upon this certificate being duly stamped as required by law. Given under the hand of the secretary of the Incorporated Law Society, [*or the said, the*

name of the registrar for the time being], this — day of —, 18—

[Signature of the secretary of the Incorporated Law Society, or signature of the registrar for the time being.]

#### SCHEDULE (B.)

#### Form of Annual Declaration for obtaining the Registrar's Certificate.

No. —.

I hereby declare, that I [or A. B.] was admitted an attorney of the Court of — in — Term, in the year —, and that my [or his] place or places of business are as follow:—

Dated this —, 18—.

A. B., [or C. D., partner  
(or London agent) of the said A. B.]

To —,  
The registrar of attorneys and solicitors.

#### CAP. CXXVI.

An Act for the further Amendment of the Process, Practice, and Mode of Pleading in, and enlarging the Jurisdiction of, the Superior Courts of Common Law at Westminster.

[28th August, 1860.]

- Sect. 1. *Relief against forfeiture for non-payment of rent.*
2. *Relief against forfeiture for non-insuring.*
3. *Minute of relief granted.*
4. *Appeal to the court from order of judge.*
5. *Power to appeal from order of court.*
6. *Courts of error to be courts of appeal.*
7. *Notice of appeal.*
8. *Bill.*
9. *Form of appeal.*
10. *Judgment of court of appeal, and power to remit proceedings.*
11. *Power of court of appeal as to costs, &c.*
12. *Interpleader may be granted, though titles have not a common origin.*
13. *Court or judge may direct sale of goods seized in execution.*
14. *Power to court or judge to decide summarily in certain cases.*
15. *Special case may be stated where facts undisputed.*
16. *Proceedings on special case in court below and in error.*
17. *Judgment and decision, when to be final.*
18. *Rules, orders, &c. made in interpleader proceedings may be entered of record, and made evidence.*
19. *Joinder as plaintiffs of all persons supposed to be legally entitled.*
20. *Defendant to have benefit of set-off, though some plaintiffs improperly joined.*
21. *No other action for the same claim to be brought.*
22. *Provisions of the 19 & 20 Vict. c. 108, as to replevin, extended to all cases of replevin.*
23. *Payment into court in replevin.*
24. *Effect of such payment.*
25. *Payment into court in action on money bonds, and for detainer.*
26. *Dower, writ of right of dower, and quare impedit abolished as real actions, and to be commenced by writ of summons.*
27. *Writ, and all proceedings thereupon, to be the same as in ordinary actions.*
28. *Judge may refuse to interfere in proceedings to attach debts.*
29. *Proceedings where third person has a lien on the debt.*
30. *Judge may bar claim of third person, and make orders.*
31. *Provisions of the 17 & 18 Vict. c. 125, to apply to orders.*
32. *Costs of writs of mandamus and injunction may be included in writs.*
33. *Mode of enforcing writs of injunction against corporations.*
34. *Costs not recoverable in action for injury, and verdict less than 5l., if judge certifies.*

35. *Enactment in lieu of sect. 88 of the 17 & 18 Vict. c. 125.*

36. *Amendments.*

37. *General rules may be made by the judges.*

38. *New forms of writs and other proceedings.*

39. *Interpretation of terms.*

40. *Provisions relating to superior courts to apply to Court of Common Pleas at Lancaster and Court of Pleas at Durham.*

41. *Provisions as to Masters of courts at Westminster to apply to prothonotaries of palatinate courts.*

42. *As to proceedings in appeal.*

43. *Commencement of act.*

44. *Her Majesty may direct all or part of this act to extend to any court of record.*

45. *Short title.*

46. *Extent of act.*

#### Relief against Forfeiture.

Sect. 1. In the case of any ejectment for a forfeiture brought for non-payment of rent, the court or a judge shall have power, upon rule or summons, to give relief in a summary manner, but subject to appeal as hereinafter mentioned, up to and within the like time after execution executed, and subject to the same terms and conditions in all respects, as to payment of rent, costs, and otherwise, as in the Court of Chancery; and if the lessee, his executors, administrators, or assigns, shall, upon such proceeding, be relieved, he and they shall hold the demised lands according to the lease thereof made, without any new lease.

2. In the case of any ejectment for a forfeiture for breach of a covenant or condition to insure against loss or damage by fire, the court or a judge shall have power, upon rule or summons, to give relief in a summary manner, but subject to appeal as hereinafter mentioned, in all cases in which such relief may now be obtained in the Court of Chancery under the provisions of an act passed in the session of Parliament held in the 22 & 23 Vict. [c. 35], intitled "An Act to further amend the Law of Property, and to relieve Trustees," and upon such terms as would be imposed in such court.

3. Where such relief shall be granted, the court or a judge shall direct a minute thereof to be made by indorsement on the lease or otherwise.

#### Appeal.

4. Any order made by a judge upon an application for relief under the provisions of this act shall be subject to an appeal to the court, and may be discharged, varied, or set aside by the court, upon such terms as the court shall think fit, on application made thereto by any party dissatisfied with such order.

5. It shall be lawful for the party against whom the court makes any rule or order in respect of such relief to appeal from such rule or order.

6. The courts of error shall be courts of appeal for the purposes of this act.

7. No appeal shall be allowed unless notice thereof be given in writing to the opposite party or his attorney, and to one of the Masters of the court, within four days after the decision complained of, or such further time as may be allowed by the court or a judge.

8. Notice of appeal shall be a stay of execution, provided bail to pay the sum demanded and costs be given, in like manner and to the same amount as bail in error, within eight days after the decision complained of, or before execution delivered to the sheriff.

9. The appeal hereinbefore mentioned shall be upon a case to be stated by the parties, (and in case of difference, to be settled by the court, or a judge of the court, appealed from), in which case shall be set forth so much of the pleadings, facts, and the order, rule, or judgment objected to, as may be necessary to raise the question for the decision of the court of appeal.

10. The court of appeal shall give such judgment or make such rule as ought to have been given or made in the court below, and shall have power to remit the cause, with such directions as they shall think proper; and all such further proceedings may be taken thereupon as if the judgment or rule had been given or made by the court below.

11. The court of appeal shall have power to adjudge payment of costs, and to order restitution.

*Interpleader Proceedings.*

12. Where an action has been commenced in respect of a common-law claim for the recovery of money or goods, or where goods or chattels have been taken or are intended to be taken in execution under process issued from any one of the superior courts, or from the Court of Common Pleas at Lancaster or the Court of Pleas at Durham, and the defendant in such action, or the sheriff or other officer, has applied for relief under the provisions of an act made and passed in the session of Parliament held in the 1 & 2 Will. 4, [c. 58], intitled "An Act to enable Courts of Law to give Relief against adverse Claims made upon Persons having no Interest in the Subject of such Claims," it shall be lawful for the court or a judge to whom such application is made to exercise all the powers and authorities given to them by this act and the hereinbefore-mentioned act passed in the session of Parliament held in the 1 & 2 Will. 4, though the titles of the claimants to the money, goods, or chattels in question, or to the proceeds or value thereof, have not a common origin, but are adverse to and independent of one another.

13. When goods or chattels have been seized in execution by a sheriff or other officer under process of the above-mentioned courts, and some third person claims to be entitled, under a bill of sale or otherwise, to such goods or chattels by way of security for a debt, the court or a judge may order a sale of the whole or part thereof, upon such terms as to payment of the whole or part of the secured debt, or otherwise, as they or he shall think fit, and may direct the application of the proceeds of such sale in such manner and upon such terms as to such court or judge may seem just.

14. Upon the hearing of any rule or order calling upon persons to appear and state the nature and particulars of their claims, it shall be lawful for the court or judge, wherever, from the smallness of the amount in dispute or of the value of the goods seized, it shall appear to them or him desirable and right so to do, at the request of either party, to dispose of the merits of the respective claims of such parties, and to determine the same in a summary manner, upon such terms as they or he shall think fit to impose, and to make such other rules and orders therein as to costs and all other matters as may be just.

15. In all cases of interpleader proceedings where the question is one of law, and the facts are not in dispute, the judge shall be at liberty, at his discretion, to decide the question without directing an action or issue, and, if he shall think it desirable, to order that a special case be stated for the opinion of the court.

16. The proceedings upon such case shall, as nearly as may be, be the same as upon a special case stated under the Common-law Procedure Act, 1852; and error may be brought upon a judgment upon such case; and the provisions of the Common-law Procedure Act, 1854, as to bringing error upon a special case, shall apply to the proceedings in error upon a special case under this act.

17. The judgment in any such action or issue as may be directed by the court or judge in any interpleader proceedings, and the decision of the court or judge in a summary manner, shall be final and conclusive against the parties, and all persons claiming by, from, or under them.

18. All rules, orders, matters, and decisions to be made and done in interpleader proceedings under this act (excepting only any affidavits) may, together with the declaration in the cause, if any, be entered of record, with a note in the margin expressing the true date of such entry, to the end that the same may be evidence in future times, if required, and to secure and enforce the payment of costs directed by any such rule or order; and every such rule or order so entered shall have the force and effect of a judgment in the superior courts of common law.

*Procedure and Practice.*

19. The joinder of too many plaintiffs shall not be fatal; but every action may be brought in the name of all the persons in whom the legal right may be supposed to exist, and judgment may be given in favour of the plaintiffs by whom the action is brought, or of one or more of them; or, in case of any question of misjoinder being raised, then in favour of such one or more of them as shall be adjudged by the court to be entitled to recover: provided always, that the defendant, though unsuccessful, shall be entitled to his costs occasioned by joining any person or persons in whose favour

judgment is not given, unless otherwise ordered by the court or a judge.

20. Upon the trial of such cause, a defendant who has therein pleaded a set-off may obtain the benefit of his set-off by proving either that all the parties named as plaintiffs are indebted to him, notwithstanding that one or more of such plaintiffs was or were improperly joined, or on proving that the plaintiff or plaintiffs who establish their right to maintain the cause is or are indebted to him.

21. No other action shall be brought against the defendant by any person so joined as plaintiff in respect of the same cause of action.

22. The provisions of an act passed in the 19 & 20 Vict. c. 106, which relate to replevin, shall be deemed and taken to apply to all cases of replevin, in like manner as to the cases of replevin of goods distrained for rent or damage feasant.

23. The plaintiff in replevin may, in answer to an avowry, pay money into court in satisfaction, in like manner, and subject to the same proceedings as to costs and otherwise, as upon a payment into court by a defendant in other actions.

24. Such payment into court in replevin shall not, nor shall the acceptance thereof by the defendant in satisfaction, work a forfeiture of the replevin bond.

25. In any action brought upon a bond which has a condition or defeasance to make void the same upon payment of a lesser sum at a day or place certain, with a penalty, and in any action for detaining the goods of the plaintiff, it shall be lawful for the defendant, by leave of the court or a judge, and upon such terms as they or he shall think fit, to pay into court a sum of money to answer the claim of the plaintiff in respect of such bond in the former case, and in the latter case to the value of the goods alleged to be detained; and such payment into court shall be made and pleaded in like manner, and according to the provisions of the Common-law Procedure Act, 1852; and the like proceedings may be had and taken thereupon as to costs and otherwise.

26. No writ of right of dower or writ of dower under nihil habet, and no plaint for free-bench or dower in the nature of any such writ, and no quare impedit, shall be brought, after the commencement of this act, in any court whatsoever; but where any such writ, action, or plaint would now lie, either in a superior or in any other court, an action may be commenced by writ of summons issuing out of the Court of Common Pleas, in the same manner and form as the writ of summons in an ordinary action; and upon such writ shall be indorsed a notice that the plaintiff intends to declare in dower, or for free-bench, or in quare impedit, as the case may be.

27. The service of the writ, appearance of the defendant, proceedings in default of appearance, pleadings, judgment, execution, and all other proceedings and costs upon such writ, shall be subject to the same rules and practice, as nearly as may be, as the proceedings in an ordinary action commenced by writ of summons; and the provisions of the Common-law Procedure Act, 1852, and of the Common-law Procedure Act, 1854, shall apply to the writ and pleadings, and proceedings thereupon.

28. In proceedings to obtain an attachment of debts under the Common-law Procedure Act, 1854, the judge may, in his discretion, refuse to interfere where, from the smallness of the amount to be recovered, or of the debt sought to be attached, or otherwise, the remedy sought would be worthless or vexatious.

29. Whenever, in proceedings to obtain an attachment of debts under the act above mentioned, it is suggested by the garnishee that the debt sought to be attached belongs to some third person, who has a lien or charge upon it, the judge may order such third person to appear before him, and state the nature and particulars of his claim upon such debt.

30. After hearing the allegations of such third person under such order, and of any other person whom by the same or any subsequent order the judge may think fit to call before him, or in case of such third person not appearing before him upon such summons, the judge may order execution to issue to levy the amount due from such garnishee, or the judgment creditor to proceed against the garnishee, according to the provisions of the Common-law Procedure Act, 1854, and he may bar the claim of such third person, or

make such other order as he shall think fit, upon such terms, in all cases, with respect to the lien or charge (if any) of such third person, and to costs, as he shall think just and reasonable.

31. The provisions of the Common-law Procedure Act, 1854, so far as they are applicable, shall apply to any order, and the proceedings thereon, made and taken in pursuance of the herein next before-mentioned powers under this act.

32. In all cases in which a writ of mandamus or of injunction is issued under the provisions of the Common-law Procedure Act, 1854, such writ shall, unless otherwise ordered by the court or a judge, in addition to the matter directed to be inserted therein, command the defendant to pay to the plaintiff the costs of preparing, issuing, and serving such writ; and payment of such costs may be enforced in the same manner as costs payable under a rule of court are now by law enforceable.

33. Writs of injunction against a corporation may be enforced either by attachment against the directors or other officers thereof, as in the case of a mandamus, or by writ of sequestration against their property and effects, to be issued in such form, and tested and returnable in like manner, as writs of execution, and to be proceeded upon and executed in like manner as writs of sequestration issuing out of the Court of Chancery.

34. When the plaintiff in any action for an alleged wrong, in any of the superior courts, recovers by the verdict of a jury less than 5*l.*, he shall not be entitled to recover or obtain from the defendant any costs whatever in respect of such verdict, whether given upon any issue or issues tried, or judgment passed by default, in case the judge or presiding officer before whom such verdict is obtained shall immediately afterwards certify on the back of the record, or on the writ of trial or writ of inquiry, that the action was not really brought to try a right besides the mere right to recover damages, and that the trespass or grievance in respect of which the action was brought was not wilful and malicious, and that the action was not fit to be brought.

35. The 88th section of the Common-law Procedure Act, 1854, shall be and is hereby repealed; and from and after the passing of this act the superior courts, or any judge thereof, may, upon summary application, by rule or order, exercise such and the like jurisdiction as may be exercised by the Court of Chancery under the provisions of the ninth part of the Merchant Shipping Act, 1854.

36. It shall be lawful for the superior courts of common law, and every judge thereof, and any judge sitting at Nisi Prius, at all times to amend all defects and errors in any proceedings under the provisions of this act, whether there is anything in writing to amend by or not, and whether the defect or error be that of the party applying to amend or not; and all such amendments may be made with or without costs, and upon such terms as to the court or judge may seem fit, and all such amendments as may be necessary for the purpose of determining in the existing suit the real question in controversy between the parties shall be so made, if duly applied for.

37. It shall be lawful for the judges of the said courts, or any eight or more of them, of whom the chiefs of each of the said courts shall be three, from time to time to make all such general rules and orders for the effectual execution of this act, and of the intention and object thereof, and for fixing the costs to be allowed for and in respect of the matters herein contained, and the performance thereof, as in their judgment shall be necessary or proper, and for that purpose to meet from time to time as occasion may require: provided, that nothing herein contained shall be construed to restrain the authority or limit the jurisdiction of the said courts, or of the judges thereof, to make rules or orders, or otherwise, to regulate and dispose of the business therein.

38. Such new or altered writs and forms of proceedings may be issued, entered, and taken as may by the judges of the said courts, or any eight or more of them, of whom the chiefs of each of the said courts shall be three, be deemed necessary or expedient for giving effect to the provisions hereinbefore contained, and in such forms as the judges of such courts respectively shall from time to time think fit to order; and such writs and proceedings shall be acted upon and enforced in such and the same manner as writs and proceedings of the said courts are now acted upon and enforced, or as near thereto as the circumstances of the case will ad-

mit; and any existing writ or proceeding, the form of which shall be in any manner altered in pursuance of this act, shall nevertheless be of the same force and virtue as if no alteration had been made therein, except as far as the effect thereof may be varied by this act.

39. In the construction of this act the word "court" shall be understood to mean any one of the superior courts of common law at Westminster; and the word "judge" shall be understood to mean a judge or baron of any of the said courts; and the word "master" shall be understood to mean a master of any of the said courts; and the word "action" shall be understood to mean any action in any of the said courts.

40. All the enactments and provisions of this act shall extend and apply to the Court of Common Pleas at Lancaster and the Court of Pleas at Durham, and actions and proceedings therein respectively, subject to the following modifications: all the powers given by this act to the judges of the said superior courts of common law at Westminster to make general rules and orders shall and may be exercised by the respective judges of the Court of Common Pleas at Lancaster and Court of Pleas at Durham, being judges of one of the said common-law courts at Westminster, or any two of them respectively, with respect to the said Court of Common Pleas at Lancaster and Court of Pleas at Durham respectively, and matters and proceedings therein within the jurisdiction of the same courts respectively; and all powers under this act exercisable by any one judge of the superior courts at Westminster shall and may be exercisable by one judge of the said superior courts of the said counties palatine, being also a judge of one of the said courts at Westminster, as to matters and proceedings in the said superior courts of the said counties palatine.

41. Provided always, that all the provisions of this act applicable to Masters of the said courts at Westminster shall apply to the respective prothonotaries of the Court of Common Pleas at Durham and their respective deputies, who may singly exercise, with reference to matters and proceedings in the last-mentioned courts respectively, the powers hereby given to any one or more of the Masters of the superior courts at Westminster.

42. Provided also, as to proceedings in appeal, that the Court of Queen's Bench, being the court of error from the said Court of Common Pleas at Lancaster and the Court of Pleas at Durham, shall also be the court of appeal from the said respective courts for the purposes of this act.

43. The provisions of this act shall come into operation on the 10th October, 1860.

44. It shall be lawful for her Majesty from time to time, by any Order in Council, to direct that all or any part of the provisions of this act, or of the rules to be made in pursuance thereof, shall apply to all or any court or courts of record in England and Wales, and within one month after such order shall have been made and published in the London Gazette such provisions and rules respectively shall extend and apply in manner directed by such Order, and any such Order may be in like manner from time to time altered and annulled; and in and by any such Order her Majesty may direct by whom any powers or duties incident to the provisions applied under this act shall and may be exercised with respect to matters in such court or courts, and may make any order or regulations which may be deemed requisite for carrying into operation in such court or courts the provisions so applied.

45. In citing this act in any instrument, document, or proceeding, it shall be sufficient to use the expression "The Common-law Procedure Act, 1860."

46. Nothing in this act shall extend to Ireland or Scotland.

#### CAP. CXXVIII.

An Act to enable the Lord Chancellor and Judges of the Court of Chancery to carry into effect the Recommendations and Suggestions of the Chancery Evidence Commissioners by General Rules and Orders of the Court.

[28th August, 1860.]

Sect. 1. *Power for Lord Chancellor and judges to make General Rules and Orders for carrying the recommendations of the Chancery Evidence Commissioners' reports into effect.*

2. *Such General Rules and Orders to be laid before Parliament.*

3. *Act not to abridge &c. powers of Lord Chancellor, &c. making General Orders.*

Whereas, by commissions under the Great Seal, dated respectively the 18th August and the 13th October, 1859, commissioners were appointed to inquire into the mode of taking evidence in the High Court of Chancery, and its effects: and whereas two reports from the said commissioners have since been made to her Majesty: and whereas doubts have been entertained whether effect can be given to the recommendations and suggestions of the said reports by General Orders of the Court without the authority of Parliament: be it declared and enacted &c. as follows:—

Sect. 1. The Lord Chancellor, with the advice and assistance of the Master of the Rolls, the Lords Justices of the Court of Appeal in Chancery, and the Vice-Chancellors, or any three of them, may from time to time, as the Lord Chancellor with such advice and assistance as aforesaid may think fit, make General Rules and Orders for carrying the said recommendations and suggestions of the said reports, or any of them, or any part thereof, into effect, and in relation to all matters consequential thereon or incidental thereto, and so far as to them shall seem expedient for varying and adding to the course of proceeding recommended in the said reports in respect of the matters to which the said reports relate; and such Rules and Orders may from time to time be rescinded or altered by the like authority; and all such Rules and Orders shall take effect as if they had been General Rules and Orders of the Court duly made.

2. Provided always, that all such General Rules and Orders as aforesaid shall immediately after the making and issuing thereof be laid before both Houses of Parliament, if Parliament be then sitting, or if Parliament be not then sitting, within five days after the next meeting thereof; and if either of the Houses of Parliament shall, by any resolution passed within thirty-six days after such Rules or Orders have been laid before such Houses of Parliament, resolve that the whole or any part of such Rules or Orders ought not to continue in force, in such case the whole or such part thereof as shall be so included in such resolution shall from and after such resolution cease to be binding.

3. Nothing herein contained shall be construed to abridge or affect the powers of making General Rules and Orders which the Lord Chancellor, either alone or with such advice and assistance as aforesaid, might have exercised if this act had not passed.

CAP. CXXIX.

An Act to grant Excise Duties on British Spirits and on Spirits imported from the Channel Islands.

[28th August, 1860.]

*Duty on British Spirits.*

Sect. 1. Duty charged on British spirits.

*Duties on Channel Islands Spirits.*

2. Duties on Channel Islands spirits.

3. Spirits of the nature of plain British spirits only to be imported from the Channel Islands.

*Allowances.*

4. Allowances granted to distillers and rectifiers on spirits exported.

5. Duties, &c. to be under the management of the Commissioners of Inland Revenue, and to be collected and paid under the provisions of acts relating to excise.

6. Where contracts have been made, additional duties to be added to the price of the articles contracted for.

CAP. CXXX.

An Act to enable the Secretary of State in Council of India to raise Money in the United Kingdom for the Service of the Government of India.

[28th August, 1860.]

Sect. 1. Power to the Secretary of State in council of India to raise any sum not exceeding 3,000,000*l*.

2. Bonds may be issued under the hands of two members of the council, countersigned by the Secretary of State or one under-secretary,

3. Debentures may be issued.

4. As to payment of principal and interest on debentures.

5. Debentures transferable by delivery or deed; coupons by delivery.

6. Capital stock and annuities may be created and issued.

7. Transfer books of such capital stock and annuities to be kept.

8. Annuities personal estate.

9. The whole amount charged on the revenue of India not to exceed 3,000,000*l*.

10. Power to raise money for the payment of principal money.

11. Securities, &c. to be charged on revenues of India.

12. Provisions as to composition for stamp duties on India bonds extended to bonds and debentures under this act.

13. Forgery of debentures to be punishable as forgery of East India bonds.

14. Returns to be annually prepared of monies raised on loan, &c., and presented to Parliament.

15. Saving powers of the Secretary of State in council.

CAP. CXXXI.

An Act to apply a Sum out of the Consolidated Fund and the Surplus of Ways and Means to the Service of the Year 1860, and to appropriate the Supplies granted in this Session of Parliament.

[28th August, 1860.]

Sect. 1. There shall be applied for the service of the year 1860 the sum of 21,183,089*l*. 10*s*. 8*d*. out of the Consolidated Fund.

2. The Treasury may cause 21,183,089*l*. 10*s*. 8*d*. of Exchequer bills to be made out in manner prescribed by stats. 48 Geo. 3. c. 1; 4 & 5 Will. 4. c. 15; and 5 & 6 Vict. c. 66.

3. The clauses, &c. in recited acts extended to this act.

4. Interest on Exchequer bills.

5. Bank of England may advance 21,183,089*l*. 10*s*. 8*d*. on the credit of this act, notwithstanding stat. 5 & 6 Will. & M. c. 20.

6. Bills prepared by virtue of this act to be delivered to the Bank as security for such advances.

7. Monies raised by Exchequer bills to be applied to the services voted by the Commons.

8. Exchequer bills made chargeable upon the growing produce of the Consolidated Fund.

9. Treasury may apply, for the service of the year 1860, 1,710,084*l*. 9*s*. 4*d*., surplus of ways and means.

10. Appropriation of ways and means to services hereafter expressed.

11. There shall be issued 12,836,100*l*. for navy services, viz. 3,476,757*l*. for wages to 85,500 seamen and marines, &c.; —1,458,087*l*. for victuals, &c. in the navy; —160,280*l*. for salaries, &c. in Admiralty Office; —287,725*l*. for salaries, &c. of coast guard, naval coast volunteers, and naval reserve; —64,322*l*. for the navy scientific departments; —172,778*l*. for naval establishments at home; —30,953*l*. for naval establishments abroad; —1,440,681*l*. for wages of artificers, &c. at home; —63,686*l*. for wages to artificers, &c. abroad; —3,204,434*l*. for naval stores, &c.; —2500*l*. for Malta Harbour; —444,049*l*. for new works in naval establishments; —73,000*l*. for medicines, &c.; —92,750*l*. for naval miscellaneous services; —679,262*l*. for naval half-pay, &c.; —488,806*l*. for military pensions; —173,030*l*. for civil pensions; —478,000*l*. for freight of ships, victualling, and conveyance of troops, &c.; —12,000*l*. for retirement to naval officers; —33,000*l*. for grant to officers, seamen, &c. for operations in China.

12. There shall be issued 407,649*l*. for army services, 1858–9.

13. There shall be issued 6,065,161*l*. for army services, viz. 865,234*l*. for wages of artificers, &c.; —324,000*l*. for clothing and necessaries; —1,278,377*l*. for provisions, barrack furniture, &c.; —2,068,088*l*. for stores for land and sea service; —595,355*l*. for fortifications; —206,500*l*. for works, buildings, &c.; —707,607*l*. for barracks; —9,247,514*l*. for other army services, viz. 4,736,701*l*. for pay, &c. of land forces, exclusive of India; —620,258*l*. for miscellaneous charges of ditto; —320,000*l*. for embodied militia; —68,000*l*. for volunteer corps; —196,224*l*. for departments of Secretary for War and Commander-in-Chief; —374,005*l*. for manufacturing departments, military storekeepers, &c.; —520,129*l*. for disembodied militia of Great Britain and Ireland; —277,547*l*. for educational and scientific branches; —25,390*l*. for rewards of military services; —75,860*l*. for general officers; —492,357*l*. for reduced and retired officers; —184,523*l*. for pensions to widows of officers, and compassionate list; —44,123*l*. for pensions, &c. to wounded officers; —30,638*l*. for in-pensioners, &c. of Chel-



sea and Kilmainham Hospitals;—1,144,895*l.* for out-pensioners of Chelsea Hospital;—136,837*l.* for superannuation and retired allowances.

14. There shall be issued 850,000*l.* for navy and military operations in China in 1860–60.

15. There shall be issued 3,356,104*l.* for naval and military operations in China, 1860–1.

16. There shall be issued 443,896*l.* for repayment to India Government of advances.

17. There shall be issued 13,230,000*l.* for Exchequer bills.

18. There shall be issued 1,000,000*l.* for Exchequer bonds.

19. There shall be issued 125,000*l.* for civil contingencies.

20. There shall be issued 855,200*l.* for Customs Department;—1,490,813*l.* for Inland Revenue Department;—2,108,581*l.* for Post Office, &c.;—1,069,778*l.* for Packet Service, &c.;—477,838*l.* for superannuations, &c., Customs, Inland Revenue, and Post Office.

#### *Civil Services.—Class 1.*

21. There shall be issued 44,505*l.* for repair of royal palaces;—118,329*l.* for maintenance, &c. of public buildings, temporary accommodation, &c.;—23,000*l.* for furniture for public departments;—37,997*l.* for new Houses of Parliament;—100,440*l.* for maintenance, &c. of royal parks, pleasure grounds, &c.;—5000*l.* for Probate Courts and district registries;—3635*l.* for embassy houses, &c. abroad;—8450*l.* for new consular offices and prison at Constantinople;—160,000*l.* for harbours of refuge;—30,000*l.* for new packet harbour and harbour of refuge at Holyhead;—401*l.* for pay, &c. at Port Patrick Harbour;—7226*l.* for works, &c. of Kingstown Harbour;—80,117*l.* for erecting, &c. buildings, Public Works, Ireland.

#### *Civil Services.—Class 2.*

22. There shall be issued 87,485*l.* for salaries, &c. of Houses of Parliament;—53,095*l.* for the Treasury;—25,687*l.* for the Home Department;—62,145*l.* for the Foreign Department;—29,206*l.* for the Department of Colonies;—18,730*l.* for Privy Council;—33,329*l.* for Committee of Privy Council for Trade, &c.;—2790*l.* for Lord Privy Seal;—5976*l.* for Civil Service Commission;—17,500*l.* for Paymaster-General's Department;—6630*l.* for Department of Comptroller-General of Exchequer;—30,559*l.* for Office of Commissioners of Works and Public Buildings;—26,783*l.* for Office of Woods, Forests, &c.;—19,191*l.* for Public Records Department and State Paper Office;—222,960*l.* for administration of poor laws;—32,513*l.* for the Mint;—21,140*l.* for salaries, &c. of Inspectors of Factories, Mines, &c.;—6234*l.* for civil charges, &c., Scotland;—6431*l.* for officers, &c. of Lord Lieutenant of Ireland;—16,084*l.* for Chief Secretary, &c., Ireland;—6004*l.* for Paymaster of Civil Services, Ireland;—2721*l.* for Inspectors of Lunatic Asylums, Ireland;—23,661*l.* for Board of Public Works, Ireland;—33,118*l.* for Department of Commissioners for auditing Public Accounts;—19,160*l.* for Copyhold, Inclosure, and Tithe Commission;—12,790*l.* for impret expenses, &c. of Copyhold, Inclosure, and Tithe Commission;—36,400*l.* for salaries, &c., General Register Office, England and Wales;—3301*l.* for salaries, &c., General Register Office, Dublin;—5812*l.* for salaries, &c., Department of Registrar-General of Births, &c., Edinburgh;—14,659*l.* for salaries, &c., National Debt Office;—2800*l.* for salaries, &c., Public Works Loan Commission;—1420*l.* for West India Islands Relief Commission;—6166*l.* for Lunacy Commission, England, and salaries, &c., Lunacy Board, Scotland;—1223*l.* for General Superintendent of County Roads in South Wales;—2153*l.* for Registrars of Friendly Societies, England, Scotland, and Ireland;—32,000*l.* for foreign and other secret services;—336,285*l.* for stationery, &c. for public departments;—128,628*l.* for postage of letters on the public service.

#### *Civil Services.—Class 3.*

23. There shall be issued 24,245*l.* for office of Solicitor to the Treasury, including prosecutions relating to coin, &c.;—100,000*l.* for prosecutions at assizes and quarter sessions;—223,475*l.* for police in counties and boroughs in England and Wales, and police in Scotland;—1220*l.* for Crown Office, Queen's Bench;—10,675*l.* for Department of Registrar of the Admiralty, and Admiralty Court, Dublin;—5976*l.* for Insolvent Debtors Court;—34,280*l.* for Court of Probate, &c.;—200,275*l.* for county courts;—21,437*l.* for police courts of the metropolis;—131,860*l.* for metropolitan police;—3500*l.* for Queen's Prison;—3342*l.* for Lord Advocate and Solicitor-

General, Scotland;—18,091*l.* for salaries, Court of Session, Scotland;—11,066*l.* for Court of Justiciary, Scotland;—5500*l.* for criminal prosecutions by Lord Advocate;—1620*l.* for certain officers in the Exchequer in Scotland;—43,000*l.* for criminal prosecutions, &c. in Scotland;—22,536*l.* for procurators fiscal in Scotland;—15,260*l.* for sheriff clerks, Scotland;—2150*l.* for expenses in matters of tithes, &c.;—15,815*l.* for General Register House, Edinburgh;—1044*l.* for Department of Commissary Clerk, Edinburgh;—1528*l.* for Department of Accountant in Bankruptcy, Scotland;—64,634*l.* for criminal prosecutions, &c., Ireland;—3600*l.* for Court of Chancery, Ireland;—3550*l.* for Court of Queen's Bench, Ireland;—3131*l.* for Court of Common Pleas, Ireland;—12,460*l.* for Court of Exchequer, Ireland;—200*l.* for clerk to taxing officers for law courts, Ireland;—5632*l.* for registrars to judges, Ireland;—6000*l.* for compensations to officers of manor courts, Ireland;—2678*l.* for office for registration of judgments in Ireland;—7692*l.* for salaries, &c. of Court of Bankruptcy, &c. Ireland;—7380*l.* for Court of Probate, &c., Ireland;—11,351*l.* for Landed Estates Court, Ireland;—450*l.* for revising barristers, Dublin;—300*l.* for salary of clerk to Court of Errors, Ireland;—1600*l.* for salaries of police justices, Dublin;—46,780*l.* for metropolitan police, &c., Dublin;—707,561*l.* for constabulary force, Ireland;—2717*l.* for Four Courts, Marshalsea, Dublin;—17,707*l.* for general superintendence of prisons, &c.;—408,023*l.* for Government prisons and convict establishments at home;—159,357*l.* for maintenance of prisoners and removal of convicts;—20,671*l.* for transportation of convicts;—173,827*l.* for convict establishments in the colonies.

#### *Civil Services.—Class 4.*

24. There shall be issued 796,167*l.* for public education, Great Britain;—94,951*l.* for Department of Science and Art, &c.;—641*l.* for secretary, &c. of Commissioners of Education, Ireland;—4820*l.* for University of London;—7690*l.* for Scottish Universities;—2371*l.* for Queen's University, Ireland;—4800*l.* for Queen's Colleges, Ireland;—500*l.* for Royal Irish Academy;—2500*l.* for theological professors, retired allowances, &c., Belfast;—11,670*l.* for salaries, purchase of pictures, &c. of the National Gallery;—4790*l.* for magnetic observations abroad, &c.;—500*l.* for Royal Geographical Society;—1000*l.* for experiments by Royal Society;—100,850*l.* for salaries, &c. at British Museum, including buildings, &c.;—270,722*l.* for public education, and Educational Commissioners, Ireland.

#### *Civil Services.—Class 5.*

25. There shall be issued 4300*l.* for civil establishment, Bermudas;—6628*l.* for ecclesiastical establishment of British North American Provinces;—1800*l.* for Indian Department, Canada;—30,000*l.* for British Columbia;—24,728*l.* for salaries of West Indian and Colonial governors;—18,000*l.* for stipendiary justices in West Indies and Mauritius;—10,230*l.* for civil establishments, West Coast of Africa;—6273*l.* for St. Helena;—960*l.* for Heligoland;—4067*l.* for Falkland Islands;—6655*l.* for Labuan;—11,472*l.* for Emigration Board and officers;—12,000*l.* for support of captured negroes and liberated Africans;—10,750*l.* for mixed commissions for suppressing the Slave Trade;—262,239*l.* for consular establishments abroad;—23,320*l.* for establishments in China, Japan, and Siam;—50,000*l.* for extraordinary disbursements of embassies and missions abroad.

#### *Civil Services.—Class 6.*

26. There shall be issued 177,713*l.* for superannuation allowances and compensations, public service;—1140*l.* for Toulon and Corsican emigrants, &c.;—325*l.* for the Refuge for the Destitute;—3363*l.* for Polish refugees, &c.;—4081*l.* for miscellaneous allowances formerly defrayed from civil list, &c.;—2539*l.* for treasurers of public infirmaries, Ireland;—2600*l.* for Westmoreland Lock Hospital, Dublin;—700*l.* for Rotunda Lying-in Hospital, Dublin;—900*l.* for Coombe Lying-in Hospital, Dublin;—7600*l.* for hospitals of House of Industry, Dublin;—2500*l.* for House of Recovery and Fever Hospital, Dublin;—600*l.* for Meath Hospital, Dublin;—100*l.* for St. Mark's Ophthalmic Hospital, Dublin;—1300*l.* for Dr. Steevens' Hospital, Dublin;—265*l.* for Board of Superintendence of Hospitals, Dublin;—8847*l.* for charitable allowances charged on Concordatum Fund in Ireland, &c.;—39,747*l.* for Nonconforming &c. Ministers in Ireland.



*Civil Services.—Class 7.*

27. There shall be issued 6040*l.* for salaries, &c. of office in London under Local Government Act;—3750*l.* for Ecclesiastical Commissioners;—17,070*l.* for salaries, &c. of Charity Commission in England and Wales;—37,480*l.* for salaries, &c. for sundry temporary commissions;—23,390*l.* for fees, &c. under Patent-law Amendment Act;—12,968*l.* for Board of Fisheries, Scotland;—2090*l.* for annuity to Board of Manufacturers, Scotland;—8000*l.* for Highland roads and bridges;—900*l.* for publication of ancient laws of Ireland;—58,700*l.* for pensions to masters, &c. of merchant service;—20,000*l.* for distressed British seamen abroad;—4000*l.* for quarantine arrangements;—50,000*l.* for dues payable under treaties of reciprocity;—25,000*l.* for bounties on slaves and slave vessels captured;—17,000*l.* for lighthouses abroad;—4266*l.* for officers employed settling Orange River territory;—27,000*l.* for improvement of Kaffirs, and Government of British Kaffraria;—32,442*l.* for expenses on account of Treasury chest;—20,000*l.* for Submarine Telegraph Companies;—7000*l.* for expedition to River Niger, &c.;—11,500*l.* for expedition to River Zambesi;—2000*l.* for inspectors of corn returns;—2060*l.* for registration of joint-stock companies;—1703*l.* for Registration of Designs Office;—17,850*l.* for revising barristers;—2500*l.* for inspection of burial grounds;—2000*l.* for Gallery of Portraits;—1000*l.* for defining boundaries of counties, Ireland;—3150*l.* for agricultural and emigration statistics, Ireland;—10,000*l.* for site for new courts of law, Four Courts, Dublin;—860*l.* for Pitcairn Islanders;—5260*l.* for Crinan and Caledonian canals;—1914*l.* for gun-metal for bas-reliefs and tablets;—1680*l.* for inquiry concerning sovereignty of Fiji Islands;—2500*l.* for drawings by old masters for British Museum;—5000*l.* for National Gallery, Dublin;—5000*l.* for Industrial Museum, Edinburgh;—2680*l.* for guard room, Windsor Castle;—15,000*l.* for additional accommodation in National Gallery, Trafalgar-square;—10,000*l.* for temporary accommodation for department of Foreign Secretary;—18,000*l.* for portion of site for Foreign Office, &c.;—38,170*l.* for new bridge at Westminster;—80,000*l.* for approaches to Westminster Bridge;—1500*l.* for repair of Carisbrook Castle;—87,000*l.* for telegraphic communication between Rangoon and Singapore;—1000*l.* for grant to Professor Hansen, of Gotha;—5000*l.* towards court-houses for sheriff courts, Scotland;—6300*l.* for Captain Palliser's expedition, British North America;—7000*l.* for reward to Captain M'Clintock and crew, and for Franklin monument;—35,000*l.* for local assessments;—17,000*l.* for accommodation at South Kensington Museum.

28. Supplies to be applied only for the purposes aforesaid.  
29. Expenditure for navy and army services respectively to be confined to the separate services for which granted. Treasury may, on application, alter the proportionate amounts for such separate services, provided the total grant to each department be not exceeded.

30. Rules to be observed in the application of the sum appropriating half-pay. Not to prevent the receiving of half-pay under any act relating to the general or local militia, &c. Paymaster-General, by permission of the Treasury, may issue half-pay to officers appointed to civil offices since July, 1896. An account of the number of officers so receiving half-pay to be laid before Parliament annually.

31. Treasury may authorise military officers in civil employments to receive half-pay in certain cases.

32. Half-pay allowances to chaplains of regiments not holding ecclesiastical benefices derived from the Crown.

33. Widows, &c. claiming pensions to make required declaration.

34. Declarations to be made as specified in the 5 & 6 Will. 4, c. 68.

**CAP. CXXXII.**

An Act for raising the Sum of Two Million Pounds by Exchequer Bonds or Exchequer Bills for the Service of the Year 1860. [28th August, 1860.]

SECT. 1. Treasury may raise 2,000,000*l.* by Exchequer bonds.

2. Interest on bonds, and repayment of principal money.

3. Treasury may cause Exchequer bonds to be prepared and issued.

4. Application of clauses 16, 17, 18, and 19 of the 17 & 18 Vict. c. 23.

5. If full amount of Exchequer bonds is not issued, Exchequer bills may be issued, as prescribed by the 48 Geo. 3, c. 1, the 4 & 5 Will. 4, c. 15, and the 5 & 6 Vict. c. 68.

6. The clauses, &c. in recited acts extended to this act.

7. Bills, how to be charged and paid.

8. Interest on bills.

9. Bills charged on supplies to be current in payment of public revenue, after twelve calendar months from their dates.

10. Money raised to be paid to the Consolidated Fund.

11. Exchequer bonds and bills may be delivered to persons authorised by the Treasury.

12. Bank of England may advance 2,000,000*l.* on the credit of bonds and bills, and Commissioners of National Debt may invest money on account of savings banks in the purchase of bonds.

**CAP. CXXXIII.**

An Act to defray the Charge of the Pay, Clothing, and contingent and other Expenses of the Disembodied Militia in Great Britain and Ireland; to grant Allowances in certain Cases to Subaltern Officers, Adjutants, Paymasters, Quartermasters, Surgeons, Assistant Surgeons, and Surgeons' Mates of the Militia; and to authorise the Employment of the Non-commissioned Officers. [28th August, 1860.]

**CAP. CXXXIV.**

An Act to amend the Law regarding Roman Catholic Charities. [28th August, 1860.]

SECT. 1. *Charities for lawful purposes not to be invalidated by the addition of unlawful trust; but the property may be apportioned, and the whole applied to lawful purposes.*

2. *No proceedings to be instituted as to dealings with Roman Catholic charities prior to the 2 & 3 Will. 4, c. 115.*

3. *Certain deeds for Roman Catholic charities not to be void if inrolled within twelve months from passing of act.*

4. *Expense of inrolment, how to be defrayed.*

5. *The trusts of charities, in the absence of settlements, may be ascertained from the usage.*

6. *The act not to prejudice past or pending proceedings or adverse possession.*

7. *Nothing in this act to repeal the provisions of the 10 Geo. 4, c. 7.*

8. *Interpretation of "charity."*

9. *Short title.*

10. *Extent of act.*

SECT. 1. No existing or future gift or disposition of real or personal estate upon any lawful charitable trust, for the exclusive benefit of persons professing the Roman Catholic religion, shall be invalidated by reason only that the same estate has been or shall be also subjected to any trust or provision deemed to be superstitious, or otherwise prohibited by the laws affecting persons professing the same religion; but in every such case it shall be lawful for the High Court of Chancery, or any judge thereof sitting at chambers, in exercise of the jurisdiction created by the Charitable Trusts Act, 1853, upon the application of her Majesty's Attorney-General, or of any person authorised for this purpose by the certificate of the Board of Charity Commissioners for England and Wales, or for the said board, upon the application of the person or persons acting in the administration of such real or personal estate, or of a majority of such persons, to apportion the same estate, or the annual income or benefit thereof, so that a proportion thereof, to be fixed by such court or judge, or by the said board, as the case may require, may be exclusively subject to the lawful charitable trusts declared by the donor or settlor, and that the residue thereof may become subject to such lawful charitable trusts for the benefit of persons professing the Roman Catholic religion, to take effect in lieu of such superstitious or prohibited trusts, as the said court or judge, or the said board, may consider under the circumstances to be most just; and also that it shall be lawful for the court or judge, or board, making any such apportionment, by the same or any other order or orders to establish any scheme for giving effect thereto, and to appoint trustees for the administration of the several portions of such

real and personal estate, according to the trusts established of the same proportions respectively, and to vest the estate to be so apportioned in the trustees so to be appointed.

2. No proceedings, at law or in equity, shall be brought or instituted on account or in respect of any dealings, transactions, matters, or things with or concerning any real or personal estate subject to any use, trust, gift, foundation, or disposition for any charity relating to or connected with the Roman Catholic religion which took place prior to the passing of the 2 & 3 Will. 4, c. 115: provided, that nothing herein contained shall extend to sanction or exempt from such proceedings as aforesaid the fraudulent misapplication or conversion of any such real or personal estate to any private use or purpose not being charitable.

3. No deed or other assurance for any charity, relating to or connected with the Roman Catholic religion, made subsequently to the passing of the 9 Geo. 2, [c. 36], intituled "An Act to restrain the Disposition of Lands whereby the same become inalienable," and before the passing of this act, shall be void or voidable by reason of the same not having been made, perfected, or inrolled in the manner directed by the first-named act, or otherwise, under the provisions of the said act, if such deed or assurance has been or shall be, within twelve months after the passing of this act, inrolled in the High Court of Chancery: provided, that every deed or assurance for any such charity as aforesaid coming within the provisions of the act passed in the 9 Geo. 4, [c. 85], intituled "An Act for remedying a Defect in the Titles of Lands purchased for charitable Purposes," shall have the benefit thereof, notwithstanding anything herein contained.

4. The expense of the inrolment of any deed under the 3rd section of this act shall be defrayed out of the property subject to the charity to which the same may relate.

5. Where any real or personal estate, subject to any use, trust, gift, foundation, or disposition for any charity relating to or connected with the Roman Catholic religion, shall have been applied upon any charitable trusts relating to or connected with the same religion during any continuous period of twenty years, but the original trusts of such property shall not be ascertained by means of any written document, the consistent usage of the last preceding twenty years, or of the last period of twenty years during which any consistent usage in the application of such property shall have prevailed, shall be deemed to afford conclusive evidence of the trusts on which the same property shall have been settled.

6. Nothing in this act contained shall extend to give effect to any use, trust, gift, foundation, or disposition heretofore made which has been already avoided in any proceeding at law or in equity, or to prejudice any suit at law or in equity commenced before the passing of this act, or to affect any property held or enjoyed beneficially by any person or persons at the time of the passing of this act adversely to any such use, trust, gift, foundation, or disposition.

7. Nothing in this act contained shall be taken to repeal or in any way alter any provisions of an act passed in the 10 Geo. 4, [c. 7], intituled "An Act for the Relief of his Majesty's Roman Catholic Subjects," respecting the suppression or prohibition of the religious orders or societies of the church of Rome bound by monastic or religious vows.

8. In the construction of this act, except where the context or other provisions of this act shall require a different construction, the expression "charity" herein contained shall be construed to mean and include the same matters and things as the like expression means and includes in the Charitable Trusts Act, 1853.

9. This act may for all purposes be cited as "The Roman Catholic Charities Act."

10. This act shall be confined in its operation to England and Wales.

#### CAP. CXXXV.

An Act for the Employment of the Metropolitan Police Force in Her Majesty's Yards and Military Stations.

[28th August, 1860.]

Sect. 1. Such number of constables of the metropolitan police as the Secretary of State may direct may be employed in her Majesty's yards, &c.

2. Commissioner of metropolitan police may swear constables to act within her Majesty's yards, &c., and within fifteen miles thereof.

3. Assistant commissioners to act as herein stated.

4. Charges incurred for constables to be defrayed out of monies provided by Parliament.

5. The commissioner of police, &c. incapacitated for voting for certain candidates for Parliament.

6. The word "yards." —

#### CAP. CXXXVI.

An Act to amend the Law relating to the Administration of Endowed Charities. [28th August, 1860.]

Sect. 1. *The Charitable Trusts Acts to be construed with this act.*

2. *Certain administrative powers to be exercisable by the Charity Commissioners.*

3. *Board to notify to trustees of charity their intention of exercising jurisdiction.*

4. *The powers to be exercisable over no charities of which the gross income shall exceed 50L. without application of trustees.*

5. *The board shall not exercise jurisdiction over contentious cases.*

6. *Notices to be given of certain orders, and objections or suggestions to be received.*

7. *Publication of definitive orders.*

8. *Power to appeal against orders of board.*

9. *Who may be the respondent on appeals.*

10. *Powers to be applicable to charities vested in corporations, &c.*

11. *Jurisdiction of the district courts of bankruptcy and county courts enlarged.*

12. *Official trustees of charitable funds may be empowered to receive arrears of dividends.*

13. *Power for magistrates to give possession of school buildings and property held over by officers or recipients of charities.*

14. *Masters and mistresses of endowed schools to be removable.*

15. *Sect. 21 of the 16 & 17 Vict. c. 137, extended.*

16. *A majority of trustees to have legal power of dealing with the charity estates.*

17. *Official trustee not to be accountable for loss unless occasioned by his own neglect.*

18. *Accounts to be laid before Parliament.*

19. *Power to require the transmission of documents belonging to charities.*

20. *Orders to be enforceable as under former acts.*

21. *Board to make minutes.*

22. *Salary of the secretary.*

23. *Indemnity to the Bank of England and others.*

24. *Commissioners, &c. exempted from serving on juries.*

25. *Short title.*

Sect. 1. The Charitable Trusts Act, 1853, and the Charitable Trusts Amendment Act, 1855, and this act, shall be construed together as one act, and any provisions of the said former acts inconsistent with this act are hereby repealed.

2. The board of Charity Commissioners for England and Wales, subject to the restrictions and rights of appeal hereinafter provided, shall have power from time to time, upon the application of any person or persons who, under the 43rd section of the Charitable Trusts Act, 1853, might be authorised to apply to any judge or court for the like purposes, to make such effectual orders as may now be made by any judge of the Court of Chancery sitting at chambers, or by any county court or district court of bankruptcy, for the appointment or removal of trustees of any charity, or for the removal of any school master or mistress or other officer thereof, or for or relating to the assurance, transfer, payment, or vesting of any real or personal estate belonging thereto, or entitling the official trustees of charitable funds, or any other trustees, to call for a transfer of, and to transfer, any stock belonging to such estate, or for the establishment of any scheme for the administration of any such charity.

3. The said board, previously to making any order under the jurisdiction vested in them by this act, shall notify to the trustees or administrators (if any) of the charity to be affected thereby their intention of exercising such jurisdiction, by notice in writing, to be delivered to them, or sent to them by the post at their last known place of abode in Great Britain or Ireland.

4. The said board shall not make any order, under the jurisdiction vested in them by this act, with respect to any charity of which the gross annual income, exclusively of the yearly value of any buildings or land used wholly for the purposes thereof, and not yielding any pecuniary income, shall amount to 50*l.* or upwards, except upon the application of the trustees or persons acting in the administration of the charity, or a majority of them, to be made to the said board in writing, under their hands if they shall be unincorporated, or under their common seal if they shall be incorporated; and the board shall not make any order removing any trustee on the ground only of his religious belief.

5. The said board also shall not exercise the jurisdiction hereby vested in them in any case which, by reason of its contentious character, or of any special questions of law or of fact which it may involve, or for other reasons, they may consider more fit to be adjudicated on by any of the judicial courts.

6. No order appointing or removing a trustee, or establishing a scheme for the administration of any charity, shall be made by the said board before the expiration of one calendar month after public notice of the proposal to make such order shall have been given, as they may consider most expedient and effectual for insuring the publicity thereof, in each parish or district in which the charity, if of a local character, shall be applicable, or among all persons interested therein; and no order removing a trustee, or school master or mistress, or other officer of a charity who shall have any known place of residence in Great Britain or Ireland, and who shall not be consenting to be discharged, shall be made before the expiration of one calendar month after notice of the proposal to make such order shall have also been delivered to him or her, or sent by the post or otherwise to such his or her place of residence, and until after sufficient hearing of the matter before the said board, or some member thereof, or one of their inspectors; and every notice hereby required shall contain (so far as conveniently may be) sufficient particulars of the objects of the proposed order, and shall prescribe a reasonable time within which any objections thereto or suggestions thereon may be made or transmitted to the board; and the said board shall receive and consider all such objections and suggestions, and may withhold, suspend, or modify their proposed order, as they shall thereupon, or in the result of further inquiry or otherwise, think expedient.

7. A copy of every such order when made shall, in the case of any local charity, be deposited for the space of one calendar month in some convenient place within the parish or one of the parishes, or in the district in which the charity shall be applicable, and shall be open to public inspection there at all reasonable hours during the same period; and a copy also of every such order relating to any charity, whether local or general, shall be kept, open to public inspection at all reasonable hours, at the office of the commissioners, during a like period of one calendar month; and in each case effectual publicity shall be given to the making of the order by such means as the board shall consider most expedient for that purpose.

8. The Attorney-General, or any person authorised by him or by the said board, in the case of any charity, whatever may be the yearly income of its endowments, and any trustee or person acting in the administration of, or interested in, any charity of which the gross yearly income, to be calculated in manner aforesaid, shall exceed 50*l.*, or any two inhabitants of any parish or district in which the same shall be specially applicable, may, within three calendar months next after the definitive publication of any order of the said board appointing or removing a trustee or trustees, or for or relating to the assurance, transfer, payment, or vesting of any real or personal estate, or establishing a scheme for the administration of the charity, present a petition to the High Court of Chancery in a summary way, appealing against such order, and praying such relief as the case may require; and any schoolmaster or schoolmistress or other officer removed by the order of the board, without the concurrence of the trustees or persons acting in the administration of the charity, or a majority of them, and without the approval of a special visitor, if any, of the charity, may within two calendar months (next after his or her removal) appeal in like manner against the order of removal; and the court, upon or before the hearing of any such petition of appeal as aforesaid, or at any stage of the proceedings, may require, if it

shall think fit, from the said board, their reasons for making the order appealed against, or for any part of such order, and may remit the same to the board for reconsideration, with or without any declaration in relation thereto, or may make any substitutive or other order in relation to the matter of the appeal, as it shall think just; and the court may make any order respecting the costs, charges, or expenses incident to the appeal, and may also, before hearing or proceeding with the same, require from any appellant, other than the Attorney-General, proper security for such costs, charges, and expenses as may be eventually payable by him; but no such petition of appeal shall be presented by any person, other than the Attorney-General, before the expiration of twenty-one days after written notice, under the hand of such appellant, of his or her intention to present such petition, shall have been delivered to the said board at their office.

9. The Attorney-General, if he shall think fit, or any person authorised by him or by the said board, may appear as the respondent upon any such appeal, and the court may make any order respecting the costs, charges, and expenses of the Attorney-General or other defendant.

10. The jurisdiction vested by this act in the said board shall be exercisable with reference to charities vested in any corporation, sole or aggregate, who, either solely or jointly with any other person or persons, shall also be the recipients of the benefit thereof.

11. The jurisdiction vested by the Charitable Trusts Act, 1853, in the district courts of bankruptcy and county courts, over charities not possessing a larger gross yearly income than 30*l.*, shall be exercisable by the said courts respectively, for the like purposes, and under the like provisions, over charities, of which the gross yearly income for the time being, to be calculated in manner aforesaid, shall not exceed 50*l.*, in the same manner as if the last-mentioned limit to the jurisdiction of the said courts had been fixed by the said former act.

12. Any court or judge, or the said board, having jurisdiction to authorise the official trustees of charitable funds to call for a transfer of, and to transfer, any annuities, stock, or securities, may empower them also to receive and recover, in trust for the charity to which the same shall belong, all dividends, interest, and income accrued from any such annuities, stock, or securities respectively, and which shall for the time being be in arrear.

13. Where any school master or mistress or other officer, or any recipient of the benefit of a charity, being in possession, by virtue of his or her office, or as such recipient, of any house, buildings, land, or property of the charity, shall have been removed from or shall cease to hold such his or her office, or his or her place as such recipient, but he or she, or any person claiming under him or her, shall refuse or neglect to relinquish the possession of such house, buildings, land, or property, within one calendar month next thereafter, to his or her successor, or to the trustees or persons acting in the administration of the charity, or as they shall direct, it shall be lawful for any two or more justices of the peace acting for the district, division, or place in which such house, buildings, land, or property shall be situate, in petty sessions assembled, and they are hereby required, on the complaint of the said trustees or administrators, and on the production of an order of the said board certifying such school master or mistress, or other officer or recipient, to have been duly removed from or to have ceased to hold his or her office or place, (which order under the seal of the said commissioners shall be conclusive evidence of the facts thereby certified, and of the jurisdiction of the said commissioners to make such order for all the purposes of this enactment, and shall afford a complete indemnity to all persons acting thereunder), to issue a warrant under the hands and seals of such justices, to any constables or peace officers of the same district, division, or place, commanding them, within a period to be thereby appointed, not being less than ten or more than twenty-one clear days thereafter, to enter into the premises, and deliver possession thereof to the said trustees or administrators, or their nominee or agent, and to remove therefrom such former school master or mistress, or other officer or recipient, and all persons claiming in his or her right, as fully and effectually, and subject to the same provisions, as nearly as the case will permit, as justices of the peace are empowered to give possession of any properties to the landlord or his agent upon the determination of the tenancy thereof, under

an act passed in the 1 & 2 Vict. c. 74, for facilitating the recovery of possession of tenements after the determination of the tenancy.

14. Every school master and mistress appointed after the date of this act shall be removable from his or her office, after reasonable notice by the trustees or persons acting in the administration of the charity, as they shall think expedient in the interests thereof, so nevertheless that the removal, by virtue only of this provision, of a master or mistress who would be otherwise irremovable from his or her office, shall be determined on by all or a majority of such trustees or administrators assembled at a meeting convened by due notice delivered or sent by the post to all such trustees or administrators who shall have any known place of residence in Great Britain or Ireland, by the space of not less than twenty-eight days previously, for the special purpose of considering and determining on the question of such removal, and of which intended meeting a notice shall also be delivered or sent in like manner to the master or mistress by the same previous space; and so also that the resolution of the meeting for the removal of any such last-mentioned master or mistress shall be forthwith certified under the hands of the trustees or persons acting as aforesaid who shall have concurred therein, or under the hand of the chairman of the meeting, and shall within seven days next thereafter be transmitted to the said board for their approval, and the same shall not take effect unless or until the same shall have been approved by the said board, who may also, if they so think fit, fix the time or any reasonable conditions at or under which the same shall come into operation; if also there shall be any special visitor of the charity who shall be resident in Great Britain or Ireland, and free from incapacity, no removal of any such last-mentioned master or mistress shall be made, under the authority only of the preceding provision, without the written consent of such visitor: provided always, that this section shall not apply to any endowed grammar school.

15. The power vested in the said board by the 21st section of the Charitable Trusts Act, 1853, of authorising the application of monies belonging to any charity, or to be raised on the security of the properties thereof, to the improvement of such properties, shall extend to authorise the application of any like monies to any other purpose or object which the board shall consider to be beneficial to the charity or the estate or objects thereof, and which shall not be inconsistent with the trusts or intentions of the foundation.

16. A majority of two-thirds of the trustees of any charity assembled at a meeting of their body duly constituted, and having power to determine on any sale, exchange, partition, mortgage, lease, or other disposition of any property of the charity, shall also have a legal power, on behalf of themselves and their co-trustees, and also of the official trustee of charity lands, where his concurrence would be otherwise required, to do, enter into, and execute all such acts, deeds, contracts, and assurances as shall be requisite for carrying any such sale, exchange, partition, mortgage, lease, or disposition into legal effect, and all such acts, deeds, contracts, or assurances shall have the same legal effect as if the same were respectively done, entered into, or executed by all the acting trustees for the time being, and by the said official trustee.

17. No official trustee of charitable funds, appointed under or in pursuance of the first or secondly recited act, shall be chargeable with or accountable for any loss or misapplication of the said charitable funds, or the dividends, interest, or income thereof, unless the same shall have been occasioned by or through his own wilful neglect or default.

18. The official trustees of charitable funds shall lay before Parliament annually, on or before the 14th February, or as soon as practicable after Parliament shall be sitting, an account of the total amount of the capital stock, shares, and securities transferred to them in the year ending the 31st December preceding, and of the total amount of monies, other than dividends or interest, paid to them or to their account during the same period, and of the investment thereof, and of the capital stock, shares, and securities sold or retransferred by them during the same period, and of the aggregate amount of the capital stock, shares, funds, and securities, and the balance of cash held by them on such preceding 31st December.

19. The board may require any person having the custody or control of any deed or document in which any charity or

charities shall be solely interested to transmit the same to the office of the said commissioners for examination; and where such deed or document shall not be held by any person entitled, as a trustee or otherwise, to the custody thereof, the board may either retain the same, for the security thereof, in the repository provided by them under the 63rd section of the Charitable Trusts Act, 1853, or, as they may think most advantageous to the charity, may thereupon, or at any time thereafter, return or issue the same to the trustees or persons acting in the administration of the charity, for the purposes thereof.

20. All orders made by the said board under the provisions of this act shall be enforceable by the same means, and shall be subject to the same provisions, as are applicable, under the Charitable Trusts Act, 1853, and the Charitable Trusts Amendment Act, 1855, respectively, to any orders of the said board made thereunder.

21. The said board shall from time to time make such minutes as shall be required relative to the institution and conduct of their proceedings under the jurisdiction created by this act.

22. There shall be paid to the secretary for the time being of the said commissioners, in consideration of the increase and extent of his official duties, such a salary, not exceeding the annual sum of 800*l.*, in lieu of the salary payable to him under the firstly-cited act, as shall from time to time be allowed by the Commissioners of her Majesty's Treasury.

23. Every order made under this act under which any stock, shares, securities, or monies shall be transferred or paid to or deposited with the trustees of any charity, or the official trustees of charitable funds, shall afford a complete indemnity to the Governor and Company of the Bank of England, and to all companies and persons by whom respectively any such transfer, payment, or deposit shall be permitted or made, for permitting or making the same; and the said Governor and Company, and other companies and persons, shall be required to give effect or to conform to such order, and it shall not be necessary for them to inquire concerning the propriety of the same order, or the jurisdiction under which the same shall purport to be made.

24. Every commissioner, secretary, and inspector acting under or employed for the purposes of the said acts shall be exempt from serving on juries while he shall be so acting or employed.

25. This act may be cited for all purposes by the short title of "The Charitable Trusts Act, 1860."

#### CAP. CXXXVII.

An Act to make further Provision with respect to Monies received from Savings Banks and Friendly Societies.

[28th August, 1860.]

Sect. 1. *Powers now vested in commissioners to extend to parliamentary securities, &c.*

2. *Annual report to be laid before Parliament.*

Sect. 1. The powers now vested in the Commissioners for the Reduction of the National Debt in respect of all monies remitted to them on account of savings banks and friendly societies shall extend to parliamentary securities, of whatsoever kind, created or issued, or which may hereafter be created or issued, under the authority of any act or acts of Parliament, for the interest on which provision is made by Parliament, and to any stock or debentures or other securities expressly guaranteed by authority of Parliament.

2. The Commissioners for the Reduction of the National Debt shall at the end of every year report to the Commissioners of her Majesty's Treasury, setting forth in detail the whole of the several transactions which shall have taken place during the course of the year in the investment of all monies coming into their hands for savings banks and friendly societies, and of all the variations, if any, which may have taken place during such year in the securities held by the said commissioners for those institutions, and copies of such reports shall be laid before both Houses of Parliament not later than the 15th February, if Parliament shall be then sitting, and if not then sitting, then within ten days after the next re-assembling of Parliament.

CAP. CXXXVIII.

An Act to continue and amend the Peace Preservation (Ireland) Act, 1856. [28th August, 1860.]

Sect. 1. Printed copies of proclamations, &c. to be posted within the district.

2. The 19 & 20 Vict. c. 36, further continued as amended by this act.

CAP. CXXXIX.

An Act to amend the Law concerning the making, keeping, and Carriage of Gunpowder, and Compositions of an explosive Nature, and concerning the Manufacture, Sale, and Use of Fireworks. [28th August, 1860.]

Sect. 1. Commencement of act, and repeal of the 9 & 10 Will. 3, c. 7, the 5 Geo. 3, c. 12, (1.), and the 12 Geo. 3, c. 61.

2. Regulations as to making and keeping of gunpowder.

3. Power to Secretary of State, on application, and sufficient cause shewn, to sanction the continuance or construction of any magazine within the prescribed distance.

4. Penalties for making and keeping gunpowder contrary to this act.

5. No charcoal to be kept within twenty yards of any mill, &c.

6. Regulations as to the making of loaded percussion caps, and the making and keeping of ammunition, &c.

7. Penalties for making loaded percussion caps, or making or keeping ammunition, &c., contrary to this act.

8. No person to sell fireworks without a license.

9. Penalty for throwing fireworks in thoroughfares.

10. Justices to license places for making and keeping gunpowder.

11. Justices to license places for making loaded percussion caps, and making and keeping ammunition, &c.

12. Notice of intention to apply for license.

13. Justices may make licenses conditional on precautions prescribed by them for preventing danger being observed.

14. In case of refusal of license, the applicant may memorialise the Secretary of State, who shall have power, notwithstanding such refusal, to grant the license.

15. Owners of mills may make rules for their servants and workmen for preventing accidents.

16. Penalty for doing any act in any mill, &c. tending to cause explosion.

17. Secretary of State may authorise persons to inspect mills, &c.

18. Limitation of quantities of gunpowder to be kept by persons other than manufacturers.

19. Gunpowder may be kept for mines, under certain conditions.

20. Not more than thirty barrels by land, and five hundred by water, to be conveyed at one time.

21. No gunpowder to be loaded until that condemned be unloaded.

22. Penalty for smoking &c. on board vessels loaded with gunpowder.

23. Penalty for undue delay in loading or unloading gunpowder.

24. Foregoing provisions to extend only to the carriage of more than 100lbs. of gunpowder.

25. Power to justices to issue warrants to search.

26. Regulations for the security of the vessels in the river Thames.

27. Conservators of the river Thames to appoint searchers.

28. Forfeitures and penalties recoverable summarily.

29. The Lord Lieutenant or Chief Secretary in Ireland to have the like authorities as are before given to the Secretary of State.

30. Act not to extend to mills erected on Crown lands, &c.

31. Act not to affect the 54 Geo. 3, c. 159, or to extend to gunpowder, &c. on board her Majesty's ships, &c.

32. Saving for proof houses under the 18 & 19 Vict. c. cxviii, (local).

33. Not to extend to hinder unlimited quantities of gunpowder being conveyed from ships below Blackwall.

34. Saving of enactment for protection of London Docks.

35. Saving for provisions of Police Acts.

36. Stats. 3 & 3 Vict. c. 47, and 9 & 10 Vict. c. 25, to be construed as referring to this act.

37. Meaning of the word "borough."

CAP. CXL.

An Act for facilitating the Acquisition by Rifle Volunteer Corps of Grounds for Rifle Practice. [28th August, 1860.]

Sect. 1. *Short title.*

2. *Not to apply to Ireland.*

3. *Definition of "rifle corps."*

4. *Power for rifle corps to purchase land.*

5. *Vesting of lands acquired by rifle corps.*

6. *Mode of obtaining assent of Secretary for War.*

7. *Secretary for War to make inquiries.*

8. *Power of Secretary for War to give or withhold assent.*

9. *The 8 & 9 Vict. cc. 18 and 19, incorporated.*

10. *Construction of acts hereby incorporated.*

11. *Landlords empowered to convey lands to be used as rifle ground.*

12. *Power to grant right of shooting in royal parks, &c.*

13. *Power for the Commissioners of her Majesty's Woods, &c. to grant lands.*

14. *Chancellor and council of the duchy of Lancaster empowered to grant land to rifle corps.*

15. *Officers of the duchy of Cornwall, empowered, upon sufficient authority, to grant lands to rifle corps.*

16. *Corporations, justices, trustees, &c. empowered to convey lands for the purposes of this act.*

17. *Power to stop footpaths.*

18. *Power of Secretary for War to make by-laws.*

19. *Proof of cesser of land to be used for purposes of act.*

*Preliminary.*

Sect. 1. This act may be cited for all purposes as "The Rifle Volunteer Grounds Act, 1860."

2. This act shall not apply to Ireland.

3. The expression "rifle volunteer corps" as herein used shall mean any rifle volunteer corps of which her Majesty has accepted the offer of service, in pursuance of the several acts of Parliament in that behalf provided.

*Power to purchase Land.*

4. Any rifle volunteer corps may purchase or acquire, by such grants as are hereinafter mentioned, any land for rifle practice, and for the erection of butts and other accommodations for the use of the corps when practising with rifles, subject to the following restriction:—

That the assent of her Majesty's Principal Secretary of State for the War Department for the time being, hereinafter called the said Principal Secretary, shall be obtained to the purchase of any land under the powers of this act, or to the grant of any land by any person or body of persons, in pursuance of the powers hereinafter given.

5. All lands acquired by any rifle volunteer corps under the powers and provisions of this act shall vest in the commanding officer of the corps for the time being, and his successors in office, with power for such officer and his successors to sue and be sued, to make contracts, and to do other things relating to such land, under the official name of the commanding officer for the time being of the corps to which he belongs.

*Assent of Secretary for War.*

6. In order to obtain the assent of the said Principal Secretary to the purchase of land under this act, the corps shall make an application to him in such manner as he may direct, describing the land intended to be purchased, and adding such particulars as to the circumstances of the corps, and as to the amount of purchase money, and as to other matters, as he may require.

7. Previously to giving his assent, the said Principal Secretary shall send an inspector to the land for the purpose of ascertaining the capabilities of such land to be converted into a rifle practice ground, with due regard to the safety and convenience of the public.

8. Upon the receipt of the report of the inspector, the said Principal Secretary may give or withhold his assent, either with or without modification, and may annex to such assent, if given, any conditions or regulations he thinks fit, and the decision of the said Principal Secretary shall in all cases be conclusive.

*Incorporation of Acts.*

9. For the purpose of facilitating the purchase of lands, in pursuance of the powers given by this act, the Lands Clauses Consolidation Act, 1845, and the Lands Clauses Consolidation (Scotland) Act, 1845, shall be incorporated with this act, with the exception of the provisions that relate to the purchase of lands otherwise than by agreement.

10. In the construction of this act and the said incorporated acts, this act shall be deemed to be the special act; and the rifle volunteer corps desirous of purchasing land shall be deemed to be the promoters of the undertaking; and under the term "land" a permanent right of shooting and drilling, or any other easement in land, shall be held to be included, and may be alone conveyed, while the fee-simple or other interest in such lands may be reserved.

*Grants to Rifle Corps.*

11. Any person seized in fee-simple, fee-tail, or for life of any manor or lands of freehold, copyhold, or customary tenure, and having the beneficial interest therein, or in Scotland being the proprietor in fee-simple or under entail, and in possession for the time being, may grant, convey, or enfranchise, by way of gift in fee-simple or for a term of years, any quantity not exceeding four acres of such land, or any limited right as aforesaid over land to any extent exceeding twenty acres, to any rifle volunteer corps: provided always, that no such grant, conveyance, or enfranchisement made by any person seized only for life of any such manor or lands shall be valid unless the person next entitled in remainder, in fee-simple, or fee-tail (if legally competent) is a party to and join in such grant: provided also, that upon its being proved, in manner hereinafter mentioned, that any land granted, conveyed, or enfranchised as aforesaid, or any part thereof, has ceased to be used for the purposes of this act, the same shall thereupon immediately revert to and become a portion of the estate of which it formed a part before the grant was made.

12. The Chief Commissioner of her Majesty's Works and Public Buildings for the time being may grant to any rifle volunteer corps the right to use for the purposes of this act any portion of such royal parks, gardens, and possessions as are under his management, upon such terms, for such time, not exceeding twenty-one years, and subject to such other conditions as he thinks fit: provided always, that any such grant shall be at all times revocable by the Crown.

13. The Commissioners of her Majesty's Woods, Forests, and Land Revenues, or either of them, on behalf of her Majesty, her heirs and successors, may, with the consent of the Commissioners of her Majesty's Treasury, grant any license for the use, during any term not exceeding twenty-one years, of any part of the possessions or land revenues of the Crown under their management, not exceeding four acres, to any rifle volunteer corps, for the purposes of this act, upon such terms and conditions as to the said commissioners or commissioner may seem meet, and subject to this proviso, that in the event of its being proved, as hereinafter mentioned, that the land in respect of which any such license has been so granted as aforesaid, or any part thereof, has ceased to be used for the purposes of this act, such license shall thereupon cease and determine; and any license to be so granted may be renewed from time to time.

14. The chancellor and council of her Majesty's duchy of Lancaster for the time being may, by any deed under the hand and seal of the chancellor of the said duchy for the time being, attested by the clerk of the council of the said duchy for the time being, for and in the name of her Majesty, her heirs and successors, grant any license for the use during any term not exceeding twenty-one years, to any rifle volunteer corps, to be used by them for the purposes of this act, of any lands forming part of the possessions of the said duchy, not exceeding in the whole four acres, upon such terms and conditions as to the said chancellor and council seem meet; subject to this proviso, that in the event of its being proved, in manner hereinafter mentioned, that the land in respect of which any license has been so granted, or any part thereof, has ceased to be used for the purposes of this act, such license shall thereupon cease and determine; and any license so granted as aforesaid may be renewed from time to time.

15. Any two or more of the principal officers of the duchy of Cornwall may, with the consent of the Commissioners of her Majesty's Treasury, under the authority of a warrant

issued for that purpose under the hands of any three or more of the special commissioners for the time being for managing the affairs of the duchy of Cornwall, or under the hands of any three or more of the persons who may hereafter for the time being have the immediate management of the said duchy, if the said duchy is then vested in the Crown, or if the said duchy is vested in a Duke of Cornwall, then under the privy seal of such Duke of Cornwall, or under the hands of any three or more of the persons for the time being having the immediate management of the said duchy, by deed under the privy seal of such duke, grant any license for the use, during any term not exceeding twenty-one years, to any rifle volunteer corps, to be used by them for the purposes of this act, of any lands forming part of the possessions of the said duchy of Cornwall, not exceeding on the whole four acres, upon such terms and conditions as to the said special commissioners, or to the said duke, or such other persons as aforesaid, seem meet; subject to this proviso, that in the event of its being proved, in manner hereinafter mentioned, that the land in respect of which any license has been so granted, or any part thereof, has ceased to be used for the purposes of this act, such license shall thereupon cease and determine; and any license to be so granted as aforesaid may be renewed from time to time.

16. Any corporation, ecclesiastical or lay, sole or aggregate, any officer, justice of the peace, trustees, or commissioners holding land for public, ecclesiastical, or parochial purposes, may grant any such license for the use, during any term not exceeding twenty-one years, to any rifle volunteer corps, to be used by them for the purposes of this act, of any quantity of land not exceeding four acres, that may be vested in such corporation, officers, justices, trustees, or commissioners, subject to the following provisions:—

- (1). That no ecclesiastical corporation sole below the dignity of a bishop shall make such grant without the consent in writing of the bishop of the diocese to whose jurisdiction he is subject, and of the patron of the preferment to which the land belongs, or the guardians or trustees of such patron.
- (2). That no parochial property shall be granted for such purposes without the consent of the majority of the ratepayers and owners of property in the parish to which the same belongs, assembled at a meeting to be convened according to the mode pointed out by the act passed in the 6 Will. 4, intitled "An Act to facilitate the Conveyance of Workhouses and other Property of Parishes, and of Incorporations or Unions of Parishes, in England and Wales," nor without the consent of the Poor-law Commissioners, to be testified by their seal being affixed to the deed of conveyance, and of the guardians of the poor of the union within which the said parish may be comprised, or of the guardians of the poor of the said parish where the administration of the relief of the poor therein shall be subject to a board of guardians, testified by such guardians being the parties to convey the same.
- (3). That where any officers, trustees, or commissioners, other than parochial trustees, make any such grant, it shall be sufficient if a majority or quorum, authorised to act, of such officers, trustees, or commissioners, assembled at a meeting duly convened, assent to such grant, and execute the deed of conveyance, although they do not constitute a majority of the actual body of such officers, trustees, or commissioners.
- (4). That the justices of the peace may give their consent to the making any grant of land or premises belonging to any county, riding, or division, by vote at their general quarter sessions, and may direct the same to be made in the manner directed to be pursued on the sale of the sites of gaols, by an act passed in the 7 Geo. 4, intitled "An Act to authorise the Disposal of unnecessary Prisons in England."
- (5). That in the event of its being proved, in manner hereinafter mentioned, that any land granted under this section, or any part thereof, has ceased to be used for the purposes of this act, it shall thereupon revert and belong to the person or body of persons to whom it belonged previously to the grant being made.



*Miscellaneous.*

17. Where any footpath crosses any lands purchased or acquired for the purposes of this act, such footpath may, with the consent of the vestry of the parish in which the same is situate, and upon the certificate of two justices that the footpath to be substituted is convenient for the public, be stopped up or diverted: all proceedings to obtain such certificate, and to stop up or divert such footpath, shall be taken in the same manner in which proceedings are directed to be taken by the act passed in the 5 & 6 Will. 4, c. 50, in cases where a party other than the inhabitants in vestry is desirous of stopping up, diverting, or turning a highway, or as near thereto as circumstances admit; with this exception, that the certificate of the justices shall be conclusive in cases where it states the fact of their having viewed the footpath to be stopped up or diverted, and that the proposed new footpath is convenient for the public.

18. The said Principal Secretary, with a view to the service, safety, and convenience of the public, may make by-laws for the regulation of rifle-shooting on grounds acquired or used by any rifle volunteer corps under the provisions of this act.

19. Any land acquired, or for the use of which any license has been granted under this act, shall be deemed to have ceased to be used for the purposes thereof where no such use by the corps to which the same was granted has taken place for a period of one year, and a certificate shall have been given by the said Principal Secretary of the fact of such non-user; and such certificate shall be conclusive evidence of such fact as against all persons, and in all courts of justice.

CAP. CXLI.

An Act to amend an Act passed in the Thirteenth Year of Her Majesty, to restrain Party Processions in Ireland. [28th August, 1860.]

The preamble recites the 13 & 14 Vict. c. 2.

Sect. 1. Exhibition of banners, &c. calculated to provoke animosity to be a misdemeanour.

2. Any justice may authorise removal of banners, &c.

3. Act to continue in force for five years.

CAP. CXLII.

An Act to make better Provision for the Union of contiguous Benefices in Cities, Towns, and Boroughs. [28th August, 1860.]

Sect. 1. *Contiguous benefices within the metropolis, as defined by the 18 & 19 Vict. c. 120, may be united.*

2. *Interpretation of terms.*

3. *Power to Bishops of London or Winchester to issue commissions.*

4. *Commission, how to be nominated.*

5. *The number to constitute a quorum, their powers, and the return to the commission.*

6. *Disqualification of commissioners, and the issuing a fresh commission.*

7. *Bishop to prepare and transmit proposals for a scheme to churchwardens and vestry.*

8. *Vestry to notify assent or objections, and bishop to transmit final proposals to Ecclesiastical Commissioners, to prepare scheme, and certify the same to the Queen in Council.*

9. *What the commissioners shall insert in the scheme.*

10. *Part of a benefice or united benefice may be severed, and included in scheme.*

11. *Surplus revenue of united benefice may be annexed as an endowment to any other benefice in the metropolis or its vicinity.*

12. *Patronage of benefices may be exchanged for facilitating unions.*

13. *Orders in Council, when published in the Gazette and registered, to have the force of law.*

14. *Scheme may provide for erection of new church or parsonage, removal of old church or parsonage, sale of site, &c.*

15. *Schemes to be laid before Parliament before being submitted to her Majesty.*

16. *Judicial Committee to consider protest against scheme.*

17. *Site of church pulled down not to be sold or let without certain consents.*

18. *After union of benefices parishes to become united for ecclesiastical purposes, and scheme to determine which church to be parish church.*

19. *Bishop may allow additional church left standing to be used for certain services.*

20. *Estates of parishes united to remain distinct as before union, except as affected by this act.*

21. *Property belonging to separate parishes, how to be applied.*

22. *Providing fund for payment of expenses of carrying act into execution.*

23. *Scheme to be valid notwithstanding informalities or omissions.*

24. *As to consents of patrons and vestries to schemes.*

25. *Supplemental orders may be made.*

26. *Bishop may prepare a scheme as to lectures customarily preached in churches to be pulled down.*

27. *Bishop of diocese may direct churches to be re-seated, and seats to be apportioned for the accommodation of parishioners.*

28. *Appropriation of seats in church of united parish.*

29. *Property to be sold to vest in Ecclesiastical Commissioners.*

30. *Extending provisions of the 1 & 2 Vict. c. 106, and the 18 & 19 Vict. c. 127.*

31. *Act not to interfere with powers of the 1 & 2 Vict. c. 106, &c.*

32. *As to nomination of clerical commissioners in certain cases.*

Whereas an act was passed in the 1 & 2 Vict. [c. 106], intitled "An Act to abridge the holding of Benefices in Plurality, and to make better Provision for the Residence of the Clergy," and in such act provision is contained authorising the union, by order of her Majesty in Council, after such inquiry and notice, and with such consent, and upon such certificate as is therein mentioned, of two or more benefices, or one or more benefice or benefices, and one or more spiritual sinecure rectory or rectories, vicarage or vicarages, in the same parish, or contiguous to each other, of which the aggregate population should not exceed 1500 persons, and the aggregate yearly value should not exceed 500*l.*: and whereas another act was passed in the 13 & 14 Vict. [c. 98], intitled "An Act to amend the Law relating to the holding of Benefices in Plurality," by which act the provision hereinbefore referred to was extended so as to be applicable to and for the union of benefices, sinecure rectories and vicarages, in the same parishes, or contiguous to each other, and of which the aggregate population should not exceed 1500 persons, notwithstanding the aggregate yearly value should exceed 500*l.*: and whereas another act was passed in the 18 & 19 Vict. [c. 127], for making better provision for the union of contiguous benefices, which act will expire on the 14th August in the present year: and whereas it is expedient to extend the provisions of the said two first-recited acts, so as to make better provision for the union of contiguous benefices in the metropolis: be it therefore enacted &c. as follows:—

Sect. 1. After the passing of this act, two or more contiguous benefices within the metropolis, as defined by an act passed in the 18 & 19 Vict. [c. 120], intitled "An Act for the better Local Management of the Metropolis," may from time to time be united, or a benefice or contiguous benefices, and one or more spiritual sinecure rectory or rectories, vicarage or vicarages, contiguous to such benefice or benefices, and situate in the metropolis, may from time to time be united, without regard in any case to aggregate population or aggregate yearly value, and without limitation as to the same, and every such union shall be effected in the manner hereinafter provided.

2. The expression "union of benefices" shall throughout this act (unless there shall be something in the context repugnant to such construction) mean such an union of two or more contiguous benefices with one another, or such an union of a benefice or benefices with a spiritual sinecure rectory or spiritual sinecure rectories, vicarage or vicarages, as is specified in the preceding section of this act; and the expression "united parish" shall mean the parishes which, in consequence of an union of benefices, shall have become united for ecclesiastical purposes under this act.



3. Whenever it shall appear to the bishop of the diocese of London or of Winchester, as the case may be, that an union of benefices may with advantage to the interests of religion be effected within his diocese, he may cause a commission to be issued under his hand and seal, addressed to five persons, to be nominated as after mentioned, authorising and requiring them to inquire into and report upon the expediency of the proposed union, and such commissioners shall and may inquire into all such matters in anywise affecting such union, or connected therewith, as they may deem necessary; and the commissioners shall make their return to the commission within six calendar months from the issuing of the commission, or within such enlarged time as the bishop shall, by writing under his hand, from time to time direct; and notice of the issuing of a commission shall be sent by the bishop to the vestry clerk of each parish proposed to be united, and notice thereof shall be published by such vestry clerk, by affixing it upon the door of the parish church.

4. Three of the commissioners shall be beneficed clergymen residing within the diocese, of whom one shall be nominated by the dean and chapter of the cathedral church of St. Paul, and two by the bishop of the diocese, and the remaining two shall be lay members of the Church of England, and shall be nominated to the bishop by the corporation of the city of London; and no commissioner shall be entitled to claim or shall receive any salary or payment for performing the duties imposed on him as such commissioner.

5. Three of the commissioners, of whom one shall be a lay commissioner, shall constitute a quorum; and the commissioners shall have power at their discretion to call for the production before them of any documents not affecting private interests which they may deem necessary for the purposes of the commission, and the persons having the care or custody of such documents shall be bound to produce them to the commissioners upon the requisition in writing of any two commissioners; and the commissioners may examine on oath all persons desirous or willing to be examined by them touching any matter relating to the object of the commission, and may administer the oaths necessary for that purpose; and the churchwardens of the parishes proposed to be united shall have notice of the sittings of such commission, and shall be entitled, with their vestry clerk, to attend thereat; and the commissioners shall in their return to the commission certify all such matters and things as shall appear to them material, together with their opinion as to the expediency or otherwise of the proposed union, and if they, or any three of them competent to constitute a quorum, shall deem the union expedient, shall recommend the terms on which in their opinion the same ought to be effected.

6. If before the return to the commission any commissioner shall die, or become incapable of acting by removal from the diocese or otherwise, the commission shall continue in full force, unless there shall not be sufficient commissioners remaining to constitute a quorum; and notwithstanding the death or disqualification of any one or more of the commissioners, the qualified commissioners for the time being shall continue to exercise the powers given to the commissioners by this act until such vacancy or vacancies shall have been filled up; but if there shall not be a sufficient quorum, the bishop may, either before or after the time limited for the return to the commission, issue a fresh commission under the provisions of this act in lieu of the original commission, and the commissioners under such substituted commission shall have all the powers of the original commission, and may adopt the evidence taken under it.

7. If the return to the commission shall recommend an union, the bishop shall cause proposals for a scheme, based upon the terms recommended, to be prepared for effecting the union, which proposals, with the consent thereto in writing of the patron or patrons of each of the benefices affected, shall be transmitted by the bishop to the churchwardens of each parish proposed to be united, in order that the same may be considered by the inhabitants in vestry assembled; and all such proposals shall have especial regard to the residence of the incumbent on the benefice proposed to be constituted the united benefice, and shall contain all necessary provisions conducing to such residence.

8. The vestry of each parish shall, by the vestry clerk or other officer, notify to the bishop, within two calendar months after the receipt of the proposals, their assent or their objections to or any suggestions for the modification of the same,

and the bishop shall give full consideration to every such notification of vestry, and shall make such alterations in the proposals as he may think right; and the bishop shall cause such proposals, as finally approved by him, and assented to by the patrons, and by the vestries of the parishes to be affected thereby, to be transmitted to the Ecclesiastical Commissioners for England, who shall thereupon cause to be prepared a scheme for carrying out the proposed union, which scheme may, with the assent of the bishop and patrons, and the vestries of the parishes to be affected thereby, embody any modifications of the proposals, and shall send drafts of such proposed scheme to the churchwardens of the parishes to be respectively affected by the scheme, with notice that they or any of them may, within two calendar months, shew cause to the Ecclesiastical Commissioners against the proposed union, or any part or parts of the scheme relating thereto; and if within such period of two calendar months no cause be shewn, the Ecclesiastical Commissioners shall certify the scheme, and the consent thereto in writing of the bishop, and of the patron, and of the vestries of the parishes to be affected thereby, to her Majesty in Council, and thereupon it shall be lawful for her Majesty in Council to make and issue any order or orders for effecting the union, and for uniting the parishes of the united benefices into one parish for ecclesiastical purposes, and for such other purposes as are herein provided: provided always, that if any petition or statement is lodged by way of protest, or any appeal is made against the scheme, or any part thereof, as hereinafter is provided, no such Order or Orders in Council shall be made or issued until such petition or statement has been duly considered, or the parties to such appeal have been duly heard.

9. It shall be lawful for the Ecclesiastical Commissioners to insert in any scheme to be prepared by them all proper directions for the appointment of the first incumbent of the united benefice, and for regulating the course and succession in which the patrons, if there be more than one patron, shall present or nominate to such united benefice from time to time as the same shall become vacant; and they shall have power to insert in any scheme all such provisions, in addition to those hereby expressly authorised, as may in their opinion be necessary for effectually carrying out the particular measures proposed by the scheme, including any provisions which may be found necessary for the compensation of any of the incumbents of the benefices to be united, who may be willing to retire therefrom; and the Ecclesiastical Commissioners shall, and may, for the purposes of this act, exercise all powers and privileges now or for the time being exercisable by them under the acts of Parliament relating to their commission, or under the Church Building Acts, particularly as regards the purchase of sites and the erection of churches.

10. Whenever it shall be deemed expedient to unite part only of a benefice with some other contiguous benefice or benefices, any portion of a benefice or benefices, or any portion of two or more benefices, which shall have been united under the provisions of this or of any other act, or in any other manner, and either prior to or subsequently to the passing of this act, may, in the manner prescribed by this act, be severed from the remaining portion, and thereupon such a portion of the parish or united parishes to which the benefice shall belong as shall be determined by the scheme effecting the severance shall become disannexed for ecclesiastical purposes; and the portion of benefices and parish so severed shall, for the purposes of an union of benefices under this act, be deemed to be a separate benefice and parish respectively, and may, by the same scheme and Order in Council under which such severance shall be effected, or by any supplemental scheme, be united to any other contiguous benefice or benefices; and in such original or supplemental scheme provisions may be inserted for annexing to the severed portion a proportion of the real and personal property of the parish or united parishes from which such severance shall have been made, and for the dealing with and application of the property (if any) to be so annexed, and for defining and determining the rights of the parishioners of the severed portion in regard to the joint vestry of the newly-united parish with which the severed portion shall be incorporated, and as to the manner of exercising such rights, and all such other provisions as may seem to the Ecclesiastical Commissioners necessary or expedient in lieu of any provisions contained in this act not applicable to an united benefice or parish of which a severed portion of a benefice or

parish shall constitute part, and after the severance the remaining portion of the benefice or parish from which the severance shall have been made shall continue one benefice or parish, or united benefice or parish, and shall not be otherwise affected by such severance; and whenever in this act the consent of the patron of a benefice shall be required for carrying the same into effect, the patron whose consent shall be requisite in the case of any such severed portion shall be the patron of the benefice or united benefice from which such severance shall be intended.

11. Whenever it shall appear to the Ecclesiastical Commissioners that the total revenue of any benefices proposed to be united would be more than sufficient for the due maintenance and support of the incumbent of the benefice proposed to be constituted an united benefice, and of such assistant curate or curates as may be needed for the same, and that some specified part or parts of the permanent endowments belonging to the benefices proposed to be united, or any of them, might, with advantage to the interests of religion, be made subject to a certain annual rent-charge in perpetuity in favour of some other specified benefice in the metropolis or in the vicinity thereof, or might be excepted out of such union, and transferred and annexed to such other specified benefice having no provision, or no competent provision, belonging thereto, as an endowment or a further endowment for the same, the Ecclesiastical Commissioners, with the consent of the patron or patrons of the benefices proposed to be united, and of the vestries of the parishes to be affected thereby, and of the bishop of the diocese within which such benefices shall be situate, may prepare and submit to her Majesty in Council a scheme for providing such rent-charge, or for effecting such transfer or annexation, and thereupon it shall be lawful for her Majesty in Council to make and issue an order or orders for giving effect to the said scheme of the commissioners, and in the scheme there shall be inserted all such powers for recovering the rent-charge (if any) by distress upon or perception of the rents and profits of the hereditaments to be charged therewith or otherwise, and for the immediate or prospective apportionment of such rent-charge or otherwise in relation thereto, as to the Ecclesiastical Commissioners shall seem reasonable and proper; and upon the order or orders directing such provision, transfer, or annexation coming into operation, the rent-charge or other permanent endowments to be provided, transferred, or annexed shall, without any further deed, transfer, or other assurance, become and be for ever annexed to such benefice, and the same, and all powers for recovering the rent-charge, (if any), or relating thereto, shall be vested in, and held and enjoyed and be exercisable by, the incumbent thereof for the time being, as the endowment or a part of the endowment thereof, subject and without prejudice nevertheless to all leases, grants, rents, charges, and incumbrances existing at the time of such provision, transfer, and annexation legally affecting the same; but the Ecclesiastical Commissioners may, in their discretion, appropriate any part not exceeding one equal fifth part of the annual income arising from any such endowment, during the whole or any part of the first five years next after the scheme shall come into operation, as a fund in augmentation of the fund hereinafter provided for the payment of the costs, charges, and expenses of carrying the provisions of this act into effect: provided that the amount of such rent-charge leviable under such scheme in any parish proposed to be united, and not included in the 23 Car. 2, c. 11, shall not exceed the average annual amount levied and paid to the incumbent of such parish in the seven years immediately preceding the passing of this act.

12. If, for the purpose of more conveniently carrying the provisions of this act into execution, it shall appear to the Ecclesiastical Commissioners to be desirable, in any case of a proposed union of benefices, that an exchange should be made of the patronage of all or any of the benefices proposed to be united, for the patronage of any other benefice, an exchange may (with the consent of the patrons of the benefices in respect whereof such exchange shall be intended, and with the approval of the Ecclesiastical Commissioners) be made by any person with any other person or corporation, or by any corporation with any other corporation or person, of the patronage or any rights of presentation to any benefice, whether the whole patronage of such benefice be vested in one person or corporation, or in different persons or corporations, by way of alternate presentation or otherwise; and

every such exchange shall be effected by the scheme for the proposed union of benefices; and after such exchange the patronage taken by each party by way of exchange shall be discharged from all prior title relating thereto; and the title to the patronage given by each party by way of exchange shall shift and attach to the patronage given to such party, which shall become subject to the same uses, trusts, powers, limitations, and provisions in every respect as the patronage so given would have been subject to if such exchange had not been made.

13. The Order or Orders in Council affirming any scheme, or directing any union, severance, or annexation, shall, as soon as may be after the making thereof by her Majesty in Council, be inserted and published in the London Gazette, and shall be registered in the registry of the diocese, and the registrar of the diocese is hereby required to make such registry; and such Order in Council, so soon as the same shall have been gazetted, shall (but subject and without prejudice to the rights of any incumbent affected thereby who shall not assent thereto) have full force and effect of law in all respects, and as to all things therein contained.

14. Any scheme may (but subject to objection and protest as after mentioned, and subject to the restrictions herein contained) provide for the erection of any new church or parsonage-house; for the pulling down or removal of any existing church, except as hereinafter provided, or parsonage-house of any benefices proposed to be united, and for the appropriation or sale of the materials and site of the same respectively, and of the ground annexed thereto and necessary for the use and enjoyment thereof; for the appropriation of any plate or other furniture held in trust for any church to be pulled down; for the disposal of any organ in such church; for the transfer of any lectureships attached to such church, but not so as to affect the right of appointment to any lectureship, or for sale or exchange of any parsonage or glebe houses or buildings, or the sites thereof, with their appurtenances; for compensation to parish clerks or other officers, or for arrangements with respect to fees or vestry rooms; but the font, communion table, and plate used for the purposes of the holy communion shall not be sold, but shall be transferred to the church of the united benefice; or if such font, communion table, and plate be not needed for such church, then to any other church or chapel, or churches or chapels, within the diocese, which the bishop may select: provided always, that nothing in this act contained shall authorise the pulling down the churches of St. Stephen's, Walbrook, St. Martin, Ludgate, St. Peter, Cornhill, and St. Swithin, Cannon-street: provided also, that the scheme for the removal of any church or parsonage shall provide for the erection of another church or parsonage within the limits of the metropolis.

15. Provided always, that no such scheme shall be submitted to her Majesty in Council until it has been laid before both Houses of Parliament for the space of two calendar months.

16. Any person interested who may have shewn cause to the Ecclesiastical Commissioners against the proposed union of any benefices, or against subjecting the endowments or revenues thereof, or any part of them, to any rent-charge, or transfer, or annexation, or against any part or parts of any scheme certified by them to her Majesty in Council, may appeal to her Majesty in Council against such scheme, or any part thereof, in the usual manner, or may, at his option, state in writing, by way of protest, his objections to such union, or any part or parts thereof, and the Ecclesiastical Commissioners shall annex such written statement or protest to their certificate to the Queen in Council, and her Majesty in Council may order and direct that such objections shall be considered by the Judicial Committee of the Privy Council, and the said Judicial Committee shall make report to her Majesty in Council thereupon, and may propose to her Majesty in Council to affirm, vary, or dismiss the scheme certified by the commissioners, or to return the same to the said commissioners for alteration or amendment, and her Majesty in Council may affirm, vary, or dismiss the scheme accordingly, or return the same to the commissioners to be reconsidered as to any parts thereof.

17. Nothing in this act contained shall legalise the sale, or letting, or appropriation of the site of any church, unless with the consents in writing of the archbishop of the province, the bishop of the diocese, the archdeacon, and the Secretary of State for the Home Department, and the site

shall be dealt with, subject to such directions and restrictions as to the removal of the remains of persons deposited under the church to be pulled down, and as to the not disturbing and finally closing such vaults or graves, as to such Secretary of State shall seem meet; but nothing in this act contained shall legalise the sale or letting of any churchyard or burial-ground; and no sale or letting shall be made of the site of any church wherein any bodies are known to be interred until after the remains of the persons deposited under such church shall have been properly removed at the cost of the Ecclesiastical Commissioners, to be paid out of the fund hereinafter provided, into some consecrated churchyard or burial-ground, or to such portion of the vaults of the same church as may be separated and set apart for a burial place; and notice shall be given by the churchwardens, or one of them, to the heirs, executors, or administrators of any persons interred in or under any such church, where they can be ascertained, of the intention to remove such remains; and a certificate in writing, under the hand of one of the churchwardens of the united parish, that such removal has been duly made, and that such notice has been given, or that such heirs, executors, or administrators cannot be ascertained, shall be conclusive evidence of the provisions of this act in regard to such removal having been complied with; and as to any tablets or monuments in such church, the same, if not removed by the heirs, executors, administrators, relatives, or friends of the person, or of some or one of the persons, to whose memory the same shall have been erected, shall, at the cost of the Ecclesiastical Commissioners, to be paid out of the fund hereinafter provided, be carefully removed and fixed in some convenient part of the church to be constituted the church of the united parishes; but every such removal of tablets or monuments may be made without the necessity of a faculty from the bishop's court, and shall be free from the payment of any fees to the incumbent of such church, or to any officer of the same, or of the parish thereof: provided always, that it shall be lawful for the heirs, executors, administrators, relations, or friends of any persons who shall be interred or deposited in or under any such church, or in any such first-mentioned churchyard or burial-ground, under proper direction, to remove the remains of such persons, and also the tablets or monuments erected to their memory, to any place they may think proper; and the expenses of such removal, not exceeding 10% in each case, shall be paid by the Ecclesiastical Commissioners out of the said fund.

18. After an union of benefices, the parishes whereof the benefices shall be united shall become and continue united, but for ecclesiastical purposes only, and in case there shall be only one church left standing and remaining within such united parish, such church shall be the church of the united parish; but in case more than one church shall be left standing, then the scheme shall determine which of the churches so left standing shall be the church of the united parish; and the vestry room of the church so constituted the parish church shall be held to be the vestry room of the united parish for the use of the parishioners thereof, and also the vestry room for secular purposes for the parishioners of each of the parishes forming the united parish, and for the care and preservation of the deeds, monuments, and records belonging to the same, unless otherwise provided by the scheme.

19. In case any church shall be left standing within the limits of any united parish other than the parish church, it shall be lawful for the bishop of the diocese, by an instrument in writing under his hand and seal, deposited in the registry of the diocese, to allow the same to be used for the performance of divine service according to the rites and ceremonies of the United Church of England and Ireland, in the Welsh or Irish or in any foreign language, or for the purposes of a school or schools in connexion with the said United Church: provided always, that nothing herein contained shall authorise any person to officiate in any such church, according to the rites and ceremonies of the United Church of England and Ireland, except with the license of the bishop; and that before the grant of any permission by the bishop for the use of any such church for any of the purposes hereby authorised, such bishop shall require proper provision to be made for the repair and sustentation of the fabric of the church so to be used, and for the preservation and care of the monuments and tablets therein.

20. Notwithstanding any union of parishes under this act,

the parishes to become united shall, as to all estates and other property, and all rates, taxes, parochial rights, and all privileges, liberties, and respects whatsoever, other than such as are affected by this act, continue and remain distinct, in the same manner as they were before such union; and the parishioners of such parishes shall continue severally to elect churchwardens and other parish officers for the said parishes in the same manner as they could have done before such union, and the churchwardens so to be elected in each of the said parishes shall together be churchwardens of the church of the united parish; and the vestries of the united parish shall together form one joint vestry for all ecclesiastical purposes; but whenever a parish or parishes shall be represented by a select vestry, (unless all the parishes to be united shall be so represented), the persons to form the joint vestry shall consist of the select vestry for the time being of such parish or parishes and of parishioners, the number whereof shall be determined by the scheme, of the other parish or parishes, and the mode of electing and maintaining the representation at the joint vestry of the parish or parishes not represented by a select vestry shall be determined by the scheme; and in the scheme may be inserted all such other provisions for the maintenance and regulation of the joint vestry, and for defining the proportions in which each parish shall contribute towards the sustentation of the fabric of the church of the united parish, and for the maintenance of the services therein, and for other ecclesiastical purposes, as the Ecclesiastical Commissioners, having regard to the circumstances of each particular case, may deem necessary.

21. No union of benefices under the provisions of this act shall affect the estates or property, donations, charities, and benefactions heretofore given to or for the benefit of the parishioners or any of the parishioners of any particular parish, or held upon any special trusts, or applicable by law or usage for or towards the maintenance of the poor, but the same shall remain and continue to be applicable to the purposes to which the same have or ought to have been heretofore applied, except that where attendance, or the performance of divine service, or any other act, is required at any church within the united parish other than the parish church of the united parish, the parish church shall, so far as regards any such attendance, performance of divine service, or other act, be deemed to be such other or original church; and all property which, if such union had not been effected, would have been vested in any incumbent for the time being of any benefice proposed to be affected by such union, either solely, or jointly with the churchwardens or any other person or corporation, upon any special trusts, the incumbent for the time being of the united benefice shall be substituted for and represent the incumbent of such separate parish; and the trust property shall vest in such incumbent solely, or jointly with such churchwardens or other person or corporation, (as the case may be), and such incumbent shall have the same powers as the incumbent whom he shall represent would have had in regard thereto if such union of benefices had not been effected; and if any such property shall have been vested in a corporation of which the incumbent of the separate parish shall have been a member, the corporation shall not be affected by the union, but the incumbent for the time being of the united benefice shall become a member of such corporation in lieu of the incumbent of the separate parish.

22. All expenses which shall be incurred by or under the sanction or direction and on behalf of any bishop or the Ecclesiastical Commissioners in promoting any union of benefices, and in otherwise carrying the provisions of this act into execution, and of the scheme under which any union shall be effected, including all preliminary expenses so incurred, shall be paid by the Ecclesiastical Commissioners, out of a fund to be provided by them, in manner following; that is to say, they shall, on the first sale by them of property or materials in pursuance of any scheme and order under this act, appropriate the whole, or such portion as they may think sufficient, of the produce of such sale as a fund, which shall be applied by them in payment of the expenses incurred and to be incurred in relation to all the proposals and schemes for the union of benefices, and the same fund shall from time to time be augmented by the said commissioners from the produce of similar sales of property, as there may be occasion; and out of the fund so to be created the said commissioners shall defray all the expenses incurred in relation or incidental to any commission to be issued under this act having re-

ference to any union or proposed union of benefices, and to all inquiries, proposals, and schemes which shall be made and prepared in consequence of any such commission, (including all preliminary costs and expenses, whether incurred prior or subsequently to the creation of such fund), and whether such inquiries, proposals, and schemes shall result in an Order in Council or not; and after providing a sufficient fund for the payment of all such expenses, and after providing and appropriating a portion of such fund sufficient in the opinion of the Ecclesiastical Commissioners to meet the probable preliminary expenses of any future commission to be issued under this act, having reference to the union of benefices, the surplus of the monies so set apart shall be applied by them, with the consent in writing of the bishop, for the benefit of any benefice or benefices in the metropolis, to whose benefit the said commissioners may, with such consent, think fit to apply the same.

23. After any scheme for an union of benefices, or any supplemental scheme, shall have been sanctioned by an Order in Council, such scheme shall be valid and of full force and effect, notwithstanding any previous non-compliance with any of the requirements of this act, and notwithstanding any omission in regard thereto or non-observance thereof, and notwithstanding any variation between such scheme and the proposals originating the same.

24. In order to give validity to any such scheme or supplemental scheme, the consent of the vestry of any parish shall be signified in writing under the hand of the chairman of such vestry, stating that in a vestry duly convened for the purpose of giving such consent a resolution for giving such consent had been duly carried; and whenever under the provisions of this act the consent of the patron of any benefice is made necessary to any proposals, scheme, or union, or to any exchange of patronage or other act, the consent of the person or persons, or corporation, who in case such benefice were vacant would be entitled to present thereto, shall be sufficient; but if the right to present to such benefice shall be vested in different persons or corporations by way of alternate presentations, the consent of each other person or corporation in whom the expectant alternate right of presentation shall for the time being be vested shall be necessary; and the 126th, 127th, and 128th clauses of the 1 & 2 Vict. c. 106, as regards the consent of patrons to the exercise of the powers given by that act, shall be applicable to the consent of patrons under this act, in the same manner as if the same clauses were here repeated and made applicable thereto; and if in any case it shall in the opinion of the Ecclesiastical Commissioners be doubtful what person ought to consent as or on behalf of the patron of any such benefice under the provisions of this act, it shall be lawful for the Ecclesiastical Commissioners to specify the person or corporation by whom such consent ought to be given, and the consent of the person or corporation so specified shall be sufficient for all the purposes of this act.

25. Her Majesty in Council may, at any time after the issuing of any order for the union of benefices, make a supplemental order, founded upon any scheme to be proposed to her Majesty in Council by the Ecclesiastical Commissioners, for remedying any defects or for supplying any omissions which in the opinion of the Ecclesiastical Commissioners shall appear to exist in the provisions of the order or orders effecting any such union, and for making any corrections and alterations in relation thereto which may be found necessary, and every such supplemental order shall have the same force and effect as if it had formed part of the original order made under the provisions of this act, but the same consents shall be necessary to such proposed supplemental scheme as would under the provisions of this act have been necessary to such supplemental scheme if the same had been an original scheme.

26. In the case of endowed lectureships, when the lectures have been customarily preached in a church which may be taken down, or which may cease to be a parish church under the provisions of this act, such lectures shall be preached in the church which shall have been or may be selected as the church of the parish of which the church may have been taken down, or the bishop of the diocese for the time being may, in order to avoid difficulties, prepare from time to time under his hand a scheme or schemes for transferring such lectures to other churches, to be preached therein at such times as to the said bishop may appear convenient, but not

so as to affect the right of electing or nominating any lecturer, and such scheme shall be submitted by the said bishop to the Charity Commissioners under the Charitable Trusts Act, 1853, and such scheme, if approved of by them, and by the vestries of the parishes affected thereby, or subject to such alterations therein as may appear to the said commissioners advisable, and as shall be approved of by the said bishop, and by the vestries of the parishes affected thereby, and if assented to in writing by the incumbent of the church to which it may be proposed to transfer the lectures, shall be valid for effecting the purposes therein mentioned, and shall be registered in the registry of the diocese; but nothing in this act contained shall give the bishop any power to license a lecturer without the consent of the incumbent of the church in which such lecturer is to officiate.

27. If any commissioners appointed under this act shall report that it is not expedient to carry any proposed union into effect, but that it would be expedient to afford improved accommodation in one or more of the churches referred to in such report for casual residents in the city or town, and others not being parishioners, the bishop of the diocese may, in any such case in which the funds for the alteration of the seats in the manner recommended in such report shall, within two years from the date of such report, be provided by local or public subscription, direct such church to be re-seated accordingly; and in such re-seating due provision shall be made for the appropriation of such number of seats as may be required for the accommodation of all parishioners attending divine worship in such church, and the churchwardens shall have power to alter from time to time the appropriation of such seats, and to appropriate to the use of parishioners such further number of seats as may be required by them, and all the seats, both appropriated and free, under any new arrangement made under this present provision, shall be made as near as possible of the same size and general appearance.

28. Upon any union of benefices the bishop of the diocese under his hand and seal shall, and he is hereby authorised, by faculty from his court, to alter and re-adjust the seats, and the appropriation thereof, in the church of the united parish, so that not less than one-half of the sittings in such church shall be left unappropriated, and the remainder shall be placed at the disposal of the churchwardens of such church, under the control and direction of the bishop, for the use of the parishioners of such united parish, discharged from all prescriptive and other pre-existing rights; and the bishop of the diocese, either upon an union of benefices, or at any time and from time to time afterwards, may cause the church of the united parish to be re-seated, and may adjust and appropriate or re-adjust and re-appropriate the sittings in the same church; and all monies expended and required for such purposes, and not provided by voluntary donation or in any other manner, shall be deemed expenses incurred by the bishop in carrying the provisions of this act into execution, and shall be defrayed accordingly.

29. Upon any Order in Council under this act coming into full operation, all churches, houses, buildings, land, and hereditaments which shall be authorised by such order to be pulled down or sold shall, without any conveyance or other form of law, be and become absolutely vested in the Ecclesiastical Commissioners, in trust to deal with or dispose of the same, and the proceeds and produce thereof, as directed by this act; and the freehold of the parish church of the united parish, and the freehold of all such other lands and hereditaments previously vested in the respective incumbents of the parishes constituting the united parish as shall not be vested in the Ecclesiastical Commissioners, shall become vested in the incumbent for the time being of the united parish; and the said commissioners shall have power to make all necessary conveyances of the hereditaments so vested in them, and to make sale and dispose of the same, at such times, and at such prices, and in such manner in all respects as to them shall seem expedient; and the receipt in writing of the treasurers for the time being of the said Ecclesiastical Commissioners for the purchase monies, rents, and profits of such hereditaments shall effectually discharge the purchasers thereof, and other persons paying the same, from the same purchase monies, rents, and profits, and from all liability in respect thereof.

30. The provisions contained in the act of the 1 & 2 Vict. c. 106, in relation to the disunion of united benefices, shall apply to all benefices which shall have been united under the provi-

sions of this act; and the provisions of the act of the 18 & 19 Vict. c. 127, shall continue in full force as to every case in which proceedings shall have been commenced and shall be pending at the time of the passing of this act, notwithstanding the period of five years limited by the same act shall have expired.

31. This act shall not abridge or interfere with the powers contained in the act of the 1 & 2 Vict. c. 106, or in any other act of Parliament now in force in regard to the union of benefices, but all such powers and the powers conferred by this act may be exercised independently of one another or concurrently.

32. Where the proposed union is within the city of Westminster, one clerical commissioner shall be nominated by the dean and chapter of Westminster, instead of being nominated by the dean and chapter of St. Paul's; and where the proposed union is not within the city of London or the liberties thereof, the lay commissioners shall be nominated to the bishop by the vestries of the parishes respectively proposed to be affected by the union, instead of being nominated by the corporation of the city of London.

#### CAP. CXLIII.

An Act to extend certain Provisions of the Titles to Land (Scotland) Act, 1858, to Titles to Land held by Burgage Tenure; and to amend the said Act.

[28th August, 1860.]

- Sect. 1. Short title.
2. Interpretation of terms.
3. Instruments of sasine, and of resignation and sasine, no longer necessary, and conveyances may be recorded.
4. Not necessary to record the whole conveyance.
5. Clause directing part of conveyance to be recorded.
6. Certain clauses not necessary in conveyances.
7. Heir in burgage subjects may make up title by writ of clare constat, or by special service.
8. Notarial instruments in favour of general disponees authorised.
9. Forms of assignments to unrecorded conveyances.
10. Notarial instruments in favour of persons acquiring rights to unrecorded conveyances authorised.
11. Destinations in entails may be referred to.
12. Certain clauses in entails no longer necessary.
13. Recording of conveyances in the register of sasines authorised.
14. Present forms of conveyances may be used.
15. Mode of completing title by a trustee in sequestration, and by liquidators of joint-stock companies.
16. Diligence against apparent heirs.
17. Obligations appointed to be inserted in instruments of sasine, &c. shall be inserted in notarial instruments.
18. Power to record conveyance or instrument of new with original or new warrant of registration.
19. Recorded instruments not to be challenged on the ground of erasures.
20. Deeds and instruments may be partly written and partly printed or engraved.
21. Fees of existing town clerks reserved; but no future town clerks to have claims for compensation for loss of fees, &c.
22. Provision for lands held burgage where no burgh register of sasines is kept.
23. Provision for lands in the burgh of Paisley held by booking tenure.
24. Court of Session may fix and regulate fees.
25. Clauses of direction to be referred to in warrants of registration.
26. Official acts of town clerks and keepers of registers of sasines not to be affected by their personal interest in recorded writs.
27. Conditions of entail, &c. may, in excambions of entailed lands, be inserted by reference merely.
28. Debts affecting lands exchanged for other lands to affect such other lands in lieu thereof.
29. Entailer's debts, &c. may be charged on entailed estate by bond and disposition in security.
30. Short clauses of consent to registration may be used in any deed.
31. Real burthens may be referred to as already in any conveyance recorded in any register of sasines.

32. Extension of provisions of the 13 & 14 Vict. c. 13, to trusts for the maintenance of churches, schools, &c.

33. Recording deed, with writ of resignation thereon, not to operate sasine on such deed.

34. Description of lands contained in recorded deeds may be inserted in subsequent writs by reference merely.

35. Conveyances and instruments may be recorded of new.

36. Meaning of certain words in Titles to Land Act, 1858, declared.

37. Amendment of sect. 38 of Titles to Land (Scotland) Act, 1858.

38. Mode of completing Title by a judicial factor on a trust estate, &c.

39. All charters or writs of resignation to operate confirmation.

40. Writs of confirmation, &c. by subjects superiors to be tested.

41. Stamp duty on writs of confirmation, &c.

42. Application of fees.

43. Commencement of act.

#### CAP. CXLIV.

An Act to amend the Procedure and Powers of the Court for Divorce and Matrimonial Causes. [28th August, 1860.]

- Sect. 1. *The Judge Ordinary may exercise powers now vested in the full court. The Judge Ordinary may call in the assistance of one of the other judges.*
2. *The judge may direct any matter to be heard by the full court. Appeal to the full court.*
3. *Appeal to the House of Lords.*
4. *Regulation of the sittings of the full court. 22 & 23 Vict. c. 61, s. 2, repealed.*
5. *The court may, where one party only appears, require counsel to be appointed to argue on the other side.*
6. *Stat. 20 & 21 Vict. c. 85, s. 45, amended.*
7. *Decrees. Collusion.*
8. *Continuance of act.*

Sect. 1. It shall be lawful for the Judge Ordinary of the Court for Divorce and Matrimonial Causes alone to hear and determine all matters arising in the said court, and to exercise all powers and authority whatever which may now be heard and determined and exercised respectively by the full court, or by three or more judges of the said court, the Judge Ordinary being one; or where the Judge Ordinary shall deem it expedient, in relation to any matter which he might hear and determine alone by virtue of this act, to have the assistance of one other judge of the said court, it shall be lawful for the Judge Ordinary to sit and act with such one other judge accordingly, and, in conjunction with such other judge, to exercise all the jurisdiction, powers, and authority of the said court.

2. Provided always, that the Judge Ordinary may, where he shall deem it expedient, direct that any such matter as aforesaid shall be heard and determined by the full court; and in addition to the cases in which an appeal to the full court now lies from the decision of the Judge Ordinary, either party dissatisfied with the decision of such judge sitting alone, in granting or refusing any application for a new trial which by virtue of this act he is empowered to hear and determine, may, within fourteen days after the pronouncing thereof, appeal to the full court, whose decision shall be final.

3. Where there is a right of appeal to the House of Lords from the decision of the full court there shall be the like right of appeal to the said House from the decision of the Judge Ordinary alone, or with any other judge, under this act.

4. The sittings of the full court shall be holden during the seventh and five following days of sitting in each term, and on such other days as the Judge Ordinary, with the assent of the Lord Chief Justice of the Court of Queen's Bench, the Lord Chief Justice of the Court of Common Pleas, and the Lord Chief Baron of the Court of Exchequer, shall from time to time appoint; and the judges of the Courts of Queen's Bench, Common Pleas, and Exchequer shall, by a rota or otherwise, as they deem most convenient, make provision for

the attendance of the requisite number of such judges to make, with the Judge Ordinary, a full court during such sittings; and sect. 2 of the act of the last session of Parliament, 22 & 23 Vict. c. 61, shall be repealed.

5. In every case of a petition for a dissolution of marriage it shall be lawful for the court, if it shall see fit, to direct all necessary papers in the matter to be sent to her Majesty's proctor, who shall, under the directions of the Attorney-General, instruct counsel to argue before the court any question in relation to such matter, and which the court may deem it necessary or expedient to have fully argued; and her Majesty's proctor shall be entitled to charge and be reimbursed the costs of such proceeding as part of the expense of his office.

6. And whereas, by sect. 45 of the act of the session holden in the 30 & 31 Vict. c. 85, it was enacted, that "in any case in which the court should pronounce a sentence of divorce or judicial separation for adultery of the wife, if it should be made appear to the court that the wife was entitled to any property, either in possession or reversion, it should be lawful for the court, if it should think proper, to order such settlement as it should think reasonable to be made of such property, or any part thereof, for the benefit of the innocent party and of the children of the marriage, or either of them:" be it further enacted, that any instrument executed pursuant to any order of the court made under the said enactment before or after the passing of this act, at the time of or after the pronouncing of a final decree of divorce or judicial separation, shall be deemed valid and effectual in the law, notwithstanding the existence of the disability of coverture at the time of the execution thereof.

7. Every decree for a divorce shall, in the first instance, be a decree nisi, not to be made absolute till after the expiration of such time, not less than three months from the pronouncing thereof, as the court shall, by general or special order, from time to time direct; and during that period any person shall be at liberty, in such manner as the court shall, by general or special order in that behalf, from time to time direct, to shew cause why the said decree should not be made absolute by reason of the same having been obtained by collusion, or by reason of material facts not brought before the court; and, on cause being so shewn, the court shall deal with the case by making the decree absolute, or by reversing the decree nisi, or by requiring further inquiry, or otherwise as justice may require; and at any time during the progress of the cause, or before the decree is made absolute, any person may give information to her Majesty's proctor of any matter material to the due decision of the case, who may thereupon take such steps as the Attorney-General may deem necessary or expedient; and if, from any such information or otherwise, the said proctor shall suspect that any parties to the suit are or have been acting in collusion for the purpose of obtaining a divorce, contrary to the justice of the case, he may, under the direction of the Attorney-General, and by leave of the court, intervene in the suit, alleging such case of collusion, and retain counsel and subpoena witnesses to prove it; and it shall be lawful for the court to order the costs of such counsel and witnesses, and otherwise, arising from such intervention, to be paid by the parties, or such of them as it shall see fit, including a wife, if she have separate property; and in case the said proctor shall not thereby be fully satisfied his reasonable costs, he shall be entitled to charge and be reimbursed the difference as part of the expense of his office.

8. This act shall continue in force until the 31st July, 1862, and no longer.

#### CAP. CXLV.

An Act to give to Trustees, Mortgagees, and Others certain Powers now commonly inserted in Settlements, Mortgages, and Wills. [28th August, 1860.]

Sect. 1. *Trustees empowered to sell may sell in lots, and either by auction or private contract.*

2. *Sale may be made under special conditions, and trustees may buy in &c.*

3. *Trustees exercising power of sale, &c. empowered to convey.*

4. *Monies arising from sales, &c. to be laid out in other lands;*

5. *Or in payment of incumbrances.*

6. *Money arising from sales, &c. not to be laid out, nor lands exchanged, elsewhere than in the country in which lands sold or exchanged are situated.*

7. *Until purchase of lands, &c., money to be invested at interest.*

8. *Trustees of renewable leaseholds may renew.*

9. *Money for equality of exchange and for renewal of leases may be raised by mortgage, &c.*

10. *No sale, &c. to be made without consent of tenant for life, &c.*

11. *Powers incident to mortgages.*

12. *Receipts for purchase money sufficient discharges.*

13. *Notice to be given before sale, but purchaser relieved from inquiry as to circumstances of sale.*

14. *Application of purchase money.*

15. *Conveyance to the purchaser.*

16. *Owner of charge may call for title deeds and conveyance of legal estate.*

17. *Appointment of receiver.*

18. *Receiver deemed to be the agent of the mortgagor.*

19. *Powers of receiver.*

20. *Receiver may be removed.*

21. *Receiver to receive a commission not exceeding 5l. per cent.*

22. *Receiver to insure, if required.*

23. *Application of monies received by him.*

24. *Second part of this act to relate to charges by way of mortgage only.*

25. *On what securities trust funds may be invested.*

26. *Trustees may apply income of property of infants, &c. for their maintenance.*

27. *Provisions for appointment of new trustees on death, &c.*

28. *Appointment of new trustees in cases herein named.*

29. *Trustees' receipts to be discharges.*

30. *Executors may compound &c.*

31. *Tenants for life, &c. may execute powers, notwithstanding incumbrances.*

32. *Powers, &c. hereby given may be negatived by express declaration.*

33. *No persons other than those entitled under the settlement, &c. to be affected.*

34. *Commencement of act.*

35. *Extent of act.*

#### PART I.—Powers of Trustees for Sale, &c., and Trustees of renewable Leaseholds.

Sect. 1. In all cases where, by any will, deed, or other instrument of settlement, it is expressly declared that trustees or other persons therein named or indicated shall have a power of sale, either generally or in any particular event, over any hereditaments named or referred to in or from time to time subject to the uses or trusts of such will, deed, or other instrument, it shall be lawful for such trustees or other persons, whether such hereditaments be vested in them or not, to exercise such power of sale by selling such hereditaments, either together or in lots, and either by auction or private contract, and either at one time or at several times, and (in case the power shall expressly authorise an exchange) to exchange any hereditaments which for the time being shall be subject to the uses or trusts aforesaid for any other hereditaments in England or Wales, or in Ireland, (as the case may be), and upon such exchange to give or receive any money for equality of exchange.

2. It shall be lawful for the persons making any such sale or exchange to insert any such special or other stipulations, either as to title or evidence of title, or otherwise, in any conditions of sale, or contract for sale or exchange, as they shall think fit, and also to buy in the hereditaments, or any part thereof, at any sale by auction, and to rescind or vary any contract for sale or exchange, and to resell the hereditaments which shall be so bought in, or as to which the contract shall be so rescinded, without being responsible for any loss which may be occasioned thereby; and no purchaser under any such sale shall be bound to inquire whether the persons making the same may or may not have in contemplation any particular re-investment of the purchase money in the purchase of any other hereditaments or otherwise.

3. For the purpose of completing any such sale or exchange as aforesaid, the persons empowered to sell or exchange as aforesaid shall have full power to convey or otherwise dis-



pose of the hereditaments in question, either by way of revocation and appointment of the use, or otherwise, as may be necessary.

4. The money so received upon any such sale or for equality of exchange as aforesaid shall be laid out in the manner indicated in that behalf in the will, deed, or instrument containing the power of sale or exchange, or if no such indication be therein contained as to all or any part of such money, then the same shall with all convenient speed be laid out in the purchase of other hereditaments in fee-simple in possession to be situate in England or Wales, or in Ireland, (as the case may be), or of lands of a leasehold or copyhold or customary tenure, which, in the opinion of the persons making the purchase, are convenient to be held therewith, or with any other hereditaments for the time being, subject to the subsisting uses or trusts of the same will, deed, or other instrument of settlement in which the power of sale or exchange was contained; and all such hereditaments so to be purchased or taken in exchange as aforesaid as shall be freeholds of inheritance shall be settled and assured to the uses, upon and for the trusts, intents, and purposes, and with, under, and subject to the powers, provisoes, and declarations to which the hereditaments sold or given in exchange were or would have been subject, or as near thereto as the deaths of parties and other intervening accidents will admit of, but not so as to increase or multiply charges; and all such hereditaments so to be purchased or taken in exchange as aforesaid as shall be of leasehold or copyhold or customary tenure shall be settled and assured upon and for such trusts, intents, and purposes, and with, under, and subject to such powers, provisoes, and declarations, as shall, as nearly as may be, correspond with and be similar to the aforesaid uses, trusts, intents, and purposes, powers, provisoes, and declarations, but not so as to increase or multiply charges, and so that, if any of the hereditaments so to be purchased shall be held by lease for years, the same shall not vest absolutely in any tenant in tail by purchase who shall not attain the age of twenty-one years; and any such purchase as aforesaid may be made subject to any special conditions as to title or otherwise: provided, that no leasehold tenement shall be purchased, under the powers hereinbefore contained, which is held for a less period than sixty years.

5. Provided nevertheless, that it shall be lawful for the persons exercising any such power as aforesaid, if they shall think fit, to apply any money to be received upon any sale or for equality of exchange as aforesaid, or any part thereof, in lieu of purchasing lands therewith, in or towards paying off or discharging any mortgage, or other charge or incumbrance, which shall or may affect all or any of the hereditaments which shall then be subject to the same uses or trusts as those to which the hereditaments sold or given in exchange were or was subject.

6. No money arising from any such sale or exchange of lands or hereditaments in England or Wales shall be laid out in the purchase of lands or hereditaments situate elsewhere than in England or Wales, and no lands situate in England or Wales shall, under any such power as aforesaid, be exchanged for any lands or hereditaments situate elsewhere than in England or Wales; and no money arising from any such sale or exchange of lands in Ireland shall be laid out in the purchase of lands or hereditaments situate elsewhere than in Ireland, and no lands or hereditaments situate in Ireland shall, under any such power as aforesaid, be exchanged for any lands or hereditaments situate elsewhere than in Ireland.

7. Until the money to be received upon any sale or for equality of exchange as aforesaid shall be disposed of in the manner herein mentioned, the same shall be invested at interest for the benefit of the same parties who would be entitled to the hereditaments to be purchased therewith as aforesaid, and the rents and profits thereof, in case such purchase and settlement as aforesaid were then actually made.

8. It shall be lawful for any trustees of any leaseholds for lives or years which are renewable from time to time, either under any covenant or contract, or by custom or usual practice, if they shall in their discretion think fit, and it shall be the duty of such trustees, if thereunto required by any person having any beneficial interest, present or future or contingent, in such leaseholds, to use their best endeavours to obtain from time to time a renewed lease of the same hereditaments on the accustomed and reasonable terms, and for that

purpose it shall be lawful for any such trustees from time to time to make, or concur in making, such surrender of the lease for the time being subsisting, and to do all such other acts as shall be requisite in that behalf; but this section is not to apply to any case where, by the terms of the settlement or will, the person in possession for his life or other limited interest is entitled to enjoy the same, without any obligation to renew the lease, or to contribute to the expense of renewing the same.

9. In case any money shall be required for the purpose of paying for equality of exchange as aforesaid, or for renewal of any lease as aforesaid, it shall be lawful for the persons effecting such exchange or renewal to pay the same out of any money which may then be in their hands in trust for the persons beneficially interested in the lands to be taken in exchange, or comprised in the renewed lease, whether arising by any of the ways and means hereinbefore mentioned or otherwise, and notwithstanding the provisions for the application of money arising from sales or exchanges hereinbefore contained; and if they shall not have in their hands as aforesaid sufficient money for the purposes aforesaid, it shall be lawful for such persons to raise the money required by mortgage of the hereditaments to be received in exchange or contained in the renewed lease, as the case may be, or of any other hereditaments for the time being subject to the subsisting uses or trusts to which the hereditaments taken in exchange, or comprised in the renewed lease, as the case may be, shall be subject; and for the purpose of effecting such mortgage such persons shall have the same powers of conveying or otherwise assuring as are herein contained with reference to a conveyance on sale; and no mortgagee advancing money upon such mortgage purporting to be made under this power shall be bound to see that such money is wanted, or that no more is raised than is wanted, for the purposes aforesaid.

10. No such sale or exchange as aforesaid, and no purchase of hereditaments out of money received on any such sale or exchange as aforesaid, shall be made without the consent of the person appointed to consent by the will, deed, or other instrument, or if no such person be appointed, then of the person entitled in possession to the receipt of the rents and profits of such hereditaments, if there be such a person under no disability; but this clause shall not be taken to require the consent of any person where it appears from the will, deed, or other instrument to have been intended that such sale, exchange, or purchase should be made by the person or persons making the same without the consent of any other person.

#### PART II.—*Powers of Mortgagees.*

11. Where any principal money is secured or charged by deed on any hereditaments of any tenure, or on any interest therein, the person to whom such money shall for the time being be payable, his executors, administrators, and assigns, shall, at any time after the expiration of one year from the time when such principal money shall have become payable, according to the terms of the deed, or after any interest on such principal money shall have been in arrear for six months, or after any omission to pay any premium on any insurance which by the terms of the deed ought to be paid by the person entitled to the property subject to the charge, have the following powers, to the same extent (but no more) as if they had been in terms conferred by the person creating the charge, namely—

- (1). A power to sell or concur with any other person in selling the whole or any part of the property by public auction or private contract, subject to any reasonable conditions he may think fit to make, and to rescind or vary contracts for sale, or buy in and resell the property, from time to time, in like manner:
- (2). A power to insure and keep insured from loss or damage by fire the whole or any part of the property (whether affixed to the freehold or not) which is in its nature insurable, and to add the premiums paid for any such insurance to the principal money secured, at the same rate of interest:
- (3). A power to appoint or obtain the appointment of a receiver of the rents and profits of the whole or any part of the property in manner hereinafter mentioned.



12. Receipts for purchase money given by the person or persons exercising the power of sale hereby conferred shall be sufficient discharges to the purchasers, who shall not be bound to see to the application of such purchase money.

13. No such sale as aforesaid shall be made until after six months' notice in writing given to the person or one of the persons entitled to the property subject to the charge, or affixed on some conspicuous part of such property; but when a sale has been effected in professed exercise of the powers hereby conferred, the title of the purchaser shall not be liable to be impeached on the ground that no case had arisen to authorise the exercise of such power, or that no such notice as aforesaid had been given; but any person damaged by any such unauthorised exercise of such power shall have his remedy in damages against the person selling.

14. The money arising by any sale effected as aforesaid shall be applied by the person receiving the same as follows—first, in payment of all the expenses incident to the sale, or incurred in any attempted sale; secondly, in discharge of all interest and costs then due in respect of the charge in consequence whereof the sale was made; and, thirdly, in discharge of all the principal monies then due in respect of such charge; and the residue of such money shall be paid to the person entitled to the property subject to the charge, his heirs, executors, administrators, or assigns, as the case may be.

15. The person exercising the power of sale hereby conferred shall have power by deed to convey or assign to and vest in the purchaser the property sold, for all the estate and interest therein which the person who created the charge had power to dispose of, except that in the case of copyhold hereditaments the beneficial interest only shall be conveyed to and vested in the purchaser by such deed.

16. At any time after the power of sale hereby conferred shall have become exercisable, the person entitled to exercise the same shall be entitled to demand and recover from the person entitled to the property subject to the charge all the deeds and documents in his possession or power relating to the same property, or to the title thereto, which he would have been entitled to demand and recover if the same property had been conveyed, appointed, surrendered, or assigned to and were then vested in him for all the estate and interest which the person creating the charge had power to dispose of; and where the legal estate shall be outstanding in a trustee, the person entitled to a charge created by a person equitably entitled, or any purchaser from such person, shall be entitled to call for a conveyance of the legal estate to the same extent as the person creating the charge could have called for such a conveyance if the charge had not been made.

17. Any person entitled to appoint or obtain the appointment of a receiver as aforesaid may from time to time, if any person or persons has or have been named in the deed of charge for that purpose, appoint such person or any one of such persons to be receiver, or if no person be so named, then may, by writing delivered to the person or any one of the persons entitled to the property subject to the charge, or affixed on some conspicuous part of the property, require such last-mentioned person or persons to appoint a fit and proper person as receiver, and if no such appointment be made within ten days after such requisition, then may in writing appoint any person he may think fit.

18. Every receiver appointed as aforesaid shall be deemed to be the agent of the person entitled to the property subject to the charge, who shall be solely responsible for his acts or defaults, unless otherwise provided for in the charge.

19. Every receiver appointed as aforesaid shall have power to demand and recover and give effectual receipts for all the rents, issues, and profits of the property of which he is appointed receiver, by action, suit, distress, or otherwise, in the name either of the person entitled to the property subject to the charge, or of the person entitled to the money secured by the charge, to the full extent of the estate or interest which the person who created the charge had power to dispose of.

20. Every receiver appointed as aforesaid may be removed by the like authority or on the like requisition as before provided with respect to the original appointment of a receiver, and new receivers may be appointed from time to time.

21. Every receiver appointed as aforesaid shall be entitled to retain out of any money received by him, in lieu of all

costs, charges, and expenses whatsoever, such a commission, not exceeding 5*l.* per centum on the gross amount of all money received, as shall be specified in his appointment, and if no amount shall be so specified, then 5*l.* per centum on such gross amount.

22. Every receiver appointed as aforesaid shall, if so directed in writing by the person entitled to the money secured by the charge, insure and keep insured from loss or damage by fire, out of the money received by him, the whole or any part of the property included in the charge, (whether affixed to the freehold or not), which is in its nature insurable.

23. Every receiver appointed as aforesaid shall pay and apply all the money received by him, in the first place in discharge of all taxes, rates, and assessments whatsoever, and in payment of his commission as aforesaid, and of the premiums on the insurances, if any, and in the next place in payment of all the interest accruing due in respect of any principal money then charged on the property over which he is receiver, or on any part thereof, and, subject as aforesaid, shall pay all the residue of such money to the person for the time being entitled to the property subject to the charge, his executors, administrators, or assigns.

24. The powers and provisions contained in this part of this act relate only to mortgages or charges made to secure money advanced or to be advanced by way of loan, or to secure an existing or future debt.

### PART III.—*Provisions as to Investment of Trust Funds, Appointment and Powers of Trustees and Executors, &c.*

25. Trustees having trust money in their hands which it is their duty to invest at interest shall be at liberty, at their discretion, to invest the same in any of the parliamentary stocks or public funds, or in Government securities, and such trustees shall also be at liberty, at their discretion, to call in any trust funds invested in any other securities than as aforesaid, and to invest the same on any such securities as aforesaid, and also from time to time, at their discretion, to vary any such investments as aforesaid for others of the same nature: provided always, that no such original investment as aforesaid, (except in the 3*l.* per Cent. Consolidated Bank Annuities), and no such change of investment as aforesaid, shall be made where there is a person under no disability entitled in possession to receive the income of the trust fund for his life, or for a term of years determinable with his life, or for any greater estate, without the consent in writing of such person.

26. In all cases where any property is held by trustees in trust for an infant, either absolutely, or contingently on his attaining the age of twenty-one years, or on the occurrence of any event previously to his attaining that age, it shall be lawful for such trustees, at their sole discretion, to pay to the guardians (if any) of such infant, or otherwise to apply for or towards the maintenance or education of such infant, the whole or any part of the income to which such infant may be entitled in respect of such property, whether there be any other fund applicable to the same purpose, or any other person bound by law to provide for such maintenance or education, or not; and such trustees shall accumulate all the residue of such income by way of compound interest, by investing the same and the resulting income thereof from time to time in proper securities, for the benefit of the person who shall ultimately become entitled to the property from which such accumulations shall have arisen: provided always, that it shall be lawful for such trustees at any time, if it shall appear to them expedient, to apply the whole or any part of such accumulations as if the same were part of the income arising in the then current year.

27. Whenever any trustee, either original or substituted, and whether appointed by the Court of Chancery or otherwise, shall die, or desire to be discharged from or refuse or become unfit or incapable to act in the trusts or powers in him reposed, before the same shall have been fully discharged and performed, it shall be lawful for the person or persons nominated for that purpose by the deed, will, or other instrument creating the trust, (if any), or if there be no such person, or no such person able and willing to act, then for the surviving or continuing trustees or trustee for the time being, or the acting executors or executor, or administrators or administrator of the last surviving and continuing trustee, or for the last retiring trustee, by writing, to appoint any other person or persons to be a trustee or trustees in the place of the trust-

tee or trustees so dying, or desiring to be discharged, or refusing or becoming unfit or incapable to act as aforesaid; and so often as any new trustee or trustees shall be so appointed as aforesaid all the trust property (if any) which for the time being shall be vested in the surviving or continuing trustees or trustee, or in the heirs, executors, or administrators of any trustee, shall with all convenient speed be conveyed, assigned, and transferred, so that the same may be legally and effectually vested in such new trustee or trustees, either solely, or jointly with the surviving or continuing trustees or trustee, as the case may require; and every new trustee or trustees to be appointed as aforesaid, as well before as after such conveyance or assignment as aforesaid, and also every trustee appointed by the Court of Chancery either before or after the passing of this act, shall have the same powers, authorities, and discretions, and shall in all respects act, as if he had been originally nominated a trustee by the deed, will, or other instrument creating the trust.

28. The power of appointing new trustees hereinbefore contained may be exercised in cases where a trustee nominated in a will has died in the lifetime of the testator.

29. The receipts in writing of any trustees or trustee for any money payable to them or him by reason or in the exercise of any trusts or powers reposed or vested in them or him shall be sufficient discharges for the money therein expressed to be received, and shall effectually exonerate the persons paying such money from seeing to the application thereof, or from being answerable for any loss or misapplication thereof.

30. It shall be lawful for any executors to pay any debts or claims upon any evidence that they may think sufficient, and to accept any composition, or any security, real or personal, for any debts due to the deceased, and to allow any time for payment of any such debts as they shall think fit, and also to compromise, compound, or submit to arbitration all debts, accounts, claims, and things whatsoever relating to the estate of the deceased, and for any of the purposes aforesaid to enter into, give, and execute such agreements, instruments of composition, releases, and other things as they shall think expedient, without being responsible for any loss to be occasioned thereby.

#### PART IV.—General Provisions.

31. For the purposes of this act, a person shall be deemed to be entitled to the possession or to the receipt of the rents and income of land or personal property, although his estate may be charged or incumbered, either by himself or by any former owner, or otherwise howsoever, to any extent; but the estates or interests of the parties entitled to any such charge or incumbrance shall not be affected by the acts of the person entitled to the possession or to the receipt of the rents and income as aforesaid, unless they shall concur therein.

32. None of the powers or incidents hereby conferred or annexed to particular offices, estates, or circumstances shall take effect or be exercisable if it is declared in the deed, will, or other instrument creating such offices, estates, or circumstances that they shall not take effect; and where there is no such declaration, then if any variations or limitations of any of the powers or incidents hereby conferred or annexed are contained in such deed, will, or other instrument, such powers or incidents shall be exercisable or shall take effect only subject to such variations or limitations.

33. Nothing in this act contained shall be deemed to empower any trustees or other persons to deal with or affect the estates or rights of any persons soever, except to the extent to which they might have dealt with or affected the estates or rights of such persons if the deed, will, or other instrument under which such trustees or other persons are empowered to act had contained express powers for such trustees or other persons so to deal with or affect such estates or rights.

34. The provisions contained in this act shall, except as herebefore otherwise provided, extend only to persons entitled or acting under a deed, will, codicil, or other instrument executed after the passing of this act, or under a will or codicil confirmed or revived by a codicil executed after that date.

35. This act shall not extend to Scotland.

#### CAP. CXLVI.

An Act to amend the Act for regulating Measures used in Sales of Gas. [28th August, 1860.]

Sect. 1. *Calculation of time specified in recited act.*

2. *Construction of acts, and recovery of penalties.*

Whereas delays have occurred in preparing the models of measures, according to the provisions of an act passed in the last session of Parliament, intituled "An Act for regulating Measures used in Sales of Gas," [23 & 23 Vict. c. 96], and it is expedient to defer the time when several of the provisions of the said act come into operation, and further to amend the same: be it enacted &c. as follows:—

Sect. 1. Except as to things done before the passing of this act under the authority of the said act, where in the said act anything is required to be done within a specified time after the passing of the same, such time shall be calculated as if the 15th October, 1860, had been the date of the passing of the said act: provided always, that, notwithstanding anything in the said act contained, the said act shall not come into operation in any county of England until the magistrates of such county in quarter sessions, or in any county in Scotland until the commissioners of supply of such county, or in any county of Ireland until the grand jury of such county, shall have resolved to bring such county under the operation of the act.

2. This act and the recited act shall be construed together as one act, and all penalties and forfeitures incurred under the provisions of either act shall be sued for and recoverable in all counties, ridings, or divisions in England and Ireland before two or more justices of the peace at petty sessions, or before the mayor or other chief magistrate of any city, borough, town, or place.

#### CAP. CXLVII.

An Act to amend the 7 & 8 Vict. c. 70.

[28th August, 1860.]

Sect. 1. *Provisions of the 7 & 8 Vict. c. 70, applicable to petitioning debtors not in custody to extend to those in custody.*

2. *Construction of terms in this and recited acts.*

For removing doubts which have arisen upon the act of the 7 & 8 Vict. c. 70, be it declared and enacted &c. as follows:—

Sect. 1. Any debtor actually in custody may petition, and his petition shall be proceeded in, according to the provisions of the said act; and all those provisions touching the consent of creditors, the meetings of creditors, and the authority of the commissioners, shall be applied to the case of such debtor petitioner which have heretofore been applied to the petitions of debtors not in actual custody.

2. This act and the said act shall be construed together as one act; and in sect. 6 of the said act, after the words "shall indorse on such certificate his protection of such petitioning debtor from arrest," the words "or his discharge from custody" shall be added; and in sect. 7, after the words "a temporary and limited protection from arrest," the words "or discharge from custody" shall be added; so that in every case of a petition by a debtor in custody by virtue of this act the commissioner may be empowered to discharge the petitioner from custody wherever such petitioner, if not in custody, would have been entitled by virtue of the said act to obtain protection from arrest.

#### CAP. CXLVIII.

An Act to continue the Powers of the Poor-law Commissioners in Ireland. [28th August, 1860.]

#### CAP. CXLIX.

An Act to make better Provision for the Relief of Prisoners in Contempt of the High Court of Chancery, and Pauper Defendants; and for the more efficient Dispatch of Business in the said Court. [28th August, 1860.]

Sect. 1. *Masters in Ordinary discharged from certain duties.*

2. *The Queen's Prison to be visited quarterly.*

3. *Prisoners and other persons may be examined on oath.*

4. *Court may direct reference as to poverty of prisoners.*

5. *Gaolers to make reports to Lord Chancellor of all Chancery prisoners.*
6. *Expenses incurred for prisoners and pauper defendants to be paid out of Suitsors' Fund.*
7. *Additional salary to solicitor to Suitsors' Fund.*
8. *Power to make General Orders.*
9. *Custody of deeds under the care of late Masters.*
10. *Appointment of additional chief clerk to the Master of the Rolls.*
11. *The junior clerk to the late Master Blunt empowered to seek compensation.*
12. *Chief clerks' (appointed since the 2nd November, 1855) salary.*
13. *By whom orders under this act are to be made.*
14. *Increased salary may be paid to two junior clerks to each chief clerk.*

Whereas by an act passed in the 11 Geo. 4 & 1 Will. 4, c. 36, intituled "An Act for altering and amending the Law regarding Commitments by Courts of Equity for Contempt, and taking Bills pro Confesso," it was enacted, amongst other things, that the rules and regulations thereafter provided and contained should be adopted by the High Court of Chancery, and should from thenceforth become orders and rules of the said Court of Chancery, and be observed and enforced in and by the said court; and it was by the sixth of such rules directed that if a defendant, upon being brought before the court upon an *habeas corpus*, should make oath (which should be administered to him by the registrar, and he should be examined in open court) that he was unable, by reason of poverty, to employ a solicitor to put in his answer, the court should thereupon refer it to a Master in rotation to inquire into the truth of that allegation, and to report thereon to the court forthwith, and thereupon the court might make such order as upon other reports of the like nature under the provisions thereafter contained; and by the seventh of such rules it was directed that on the 30th January, the 30th April, the 30th July, and the 30th October in every year, or if any of those days should happen on a Sunday, then on the following day, one of the Masters of the Court of Chancery, to be named by the court, should visit the Fleet Prison, and examine the prisoners confined there for contempt, and should report his opinion on their respective cases to the court, and thereupon it should be lawful for the court to make such order as therein mentioned: and whereas by an act passed in the 5 & 6 Vict. c. 22, intituled "An Act for consolidating the Queen's Bench, Fleet, and Marshalsea Prisons, and for regulating the Queen's Prison," it was enacted, amongst other things, that the prison to be called the Queen's Prison should be the only prison for all persons who before the passing of that act might lawfully have been imprisoned: in the Fleet Prison and other prisons therein named: and whereas by an act passed in the 15 & 16 Vict. c. 80, intituled "An Act to abolish the Office of Master in Ordinary of the High Court of Chancery, and to make Provision for the more speedy and efficient Dispatch of Business in the said Court," the office of Master in Ordinary of the High Court of Chancery was abolished, but reserving and subject to the execution by the then Masters in Ordinary of the said court of the duties thereafter provided for, and until they were released under the same act they were for the performance of such duties to continue to have all the powers conferred upon them by the act of Parliament or otherwise vested in them; and it was enacted that, on the first day of Michaelmas Term, 1855, two of the said Masters should be released, and that as often as in the judgment of the Lord Chancellor any other Master or Masters could be spared, it should be lawful for the Lord Chancellor to release any such Master or Masters, and that when the Lord Chancellor should be of opinion that the services of none of the Masters were any longer necessary for the due execution of the business of the said court, it should be lawful for him to release every remaining Master: and whereas, since the passing of the last-mentioned act, one of the Masters in Ordinary of the said court has died, and all the others have been released except three, two of whom are quite incapable from ill-health of performing the duties of their office, and the other of whom is of advanced age, and very infirm, and has held the office of Master in the Court of Exchequer and the Court of Chancery for the period of thirty-nine years and upwards: and whereas it has been considered desirable, for the better discharge of the business of the said

court, that the causes and matters now remaining in their offices of the said Masters should be transferred to the judges' chambers, and accordingly the Lord Chancellor, with the advice and assistance of all the judges of the court, has, by order bearing date the 23rd August, 1860, ordered and directed that all causes, matters, and things now depending before the Masters shall be proceeded with and prosecuted before the respective judges of the court: and whereas the only duty now remaining to be performed by the Masters is that of visiting the prison as required by the first-recited act, and it is expedient that they should be relieved from such duty, and that some other provision should be made for the performance thereof: and whereas it is also expedient that some further provision should be made for the relief of prisoners in custody for contempt of the said court: and whereas since the date of the first hereinbefore-recited act various alterations have been made in the practice and procedure of the said court, by reason whereof several of the rules and regulations contained in the same act may require to be varied, and it is expedient that the Lord Chancellor should have power to make such General Orders as may from time to time be necessary in that behalf: be it therefore enacted &c. as follows:—

SECT. 1. The Masters in Ordinary of the High Court of Chancery shall be and they are hereby discharged from the several duties imposed on them by the said first-recited act.

2. In the last week in January, in the last week in April, in the last week in July, and in the last week in October in every year, the present solicitor to the Suitsors' Fund, or, in case of his illness or unavoidable absence, some officer of the Court of Chancery to be appointed by the Lord Chancellor from time to time during such illness or absence, and after the death or retirement of the present solicitor to the Suitsors' Fund, the solicitor to the Suitsors' Fund for the time being, or some other officer of the Court of Chancery to be appointed by the Lord Chancellor from time to time, shall visit the Queen's Prison, and examine the prisoners confined there for contempt, and shall report his opinion on their respective cases to the Lord Chancellor, and thereupon it shall be lawful for the Lord Chancellor, if he shall think fit, to assign a solicitor to any such prisoner, not only for defending him in forma pauperis, but generally for taking such steps on his behalf as the nature of the case may require; and to make all or any such orders as the Lord Chancellor was empowered to make after the like report of a Master under the seventh rule of the said first hereinbefore-recited act, and all the provisions of the same rule shall apply to the reports hereby directed, and the orders to be made thereunder.

3. It shall be lawful for the solicitor to the Suitsors' Fund or other officer visiting the prison as aforesaid to examine the prisoners, and all other persons whom he may think it proper to examine, upon oath, and to administer an oath or oaths to any such prisoner and other persons accordingly, and to cause any officers, clerks, and ministers of any court of law or equity to bring and produce, upon oath, before him, any records, orders, books, papers, or other writings belonging to the said courts, or to any of the officers within the same, as such officers.

4. In all cases where, in pursuance of the said sixth rule contained in the first hereinbefore-recited act, a defendant shall be brought to the bar of the court, and shall make oath that he is unable, by reason of poverty, to employ a solicitor to put in his answer, the court, if not satisfied of the truth of that allegation, may direct an inquiry as to the truth thereof, and may appoint a solicitor to conduct such inquiry on behalf of such defendant, and if it is ascertained by means of such inquiry, or if the court is satisfied without such inquiry, that such defendant is unable, by reason of poverty, to employ a solicitor to put in his answer, the court may thereupon make such order as is authorized by the said sixth rule, after a report by a Master.

5. When any person shall be committed to any prison other than the Queen's Prison, under any writ or order of the Court of Chancery, the gaoler or keeper of the prison in which such person shall be confined shall, within fourteen days after such person shall have been in the custody of such gaoler or keeper, make a report to the Lord Chancellor, containing the name and description of such prisoner, with the cause and date of his commitment, and a copy of the writ or order under which he was committed; and if such prisoner shall make oath before one of the visiting justices of such

gaol, or a commissioner for taking oaths in the Court of Chancery, that he is unable, by reason of poverty, to employ a solicitor, the report shall contain a statement to that effect, and it shall thereupon be lawful for the Lord Chancellor to direct the solicitor to the Suitors' Fund to ascertain the truth of such statement, and, if true, to take such steps on behalf of any such prisoner as the nature of the case may require; and the Lord Chancellor may thereupon, if he shall see fit, make such order or orders as he is empowered to make under the 2nd section of this act.

6. The solicitor to the Suitors' Fund shall make the necessary and proper payments out of pocket which may be requisite in the proceedings taken on behalf of the prisoners and defendants under the order of the said court, and shall be allowed the same as part of his disbursements in respect of the Suitors' Fund: provided, that if any such prisoner or defendant shall be or become entitled to any funds in the cause, such funds shall be applied in the repayment to the Suitors' Fund of the sums expended on his behalf as aforesaid: provided also, that in case any prisoner or defendant shall become entitled to any costs in any such suit or proceeding, such costs shall be received by the solicitor to the Suitors' Fund, and paid by him into the Suitors' Fund.

7. In consequence of the additional duties under the authority of this act imposed on the solicitor to the Suitors' Fund, there shall be paid to him such additional yearly salary as the Lord Chancellor shall from time to time direct, not exceeding the net yearly salary of 300*l.*, such additional salary to be payable out of the same funds and in the same manner as his present salary is payable.

8. It shall be lawful for the Lord Chancellor, with the advice and assistance of the Master of the Rolls, the Lords Justices of the Court of Appeal in Chancery, and the Vice-Chancellors, or any three of them, from time to time to make such General Rules and Orders for regulating the mode of procedure regarding commitments by the Court of Chancery for contempt and taking bills pro confesso, and for doing and effectuating any acts or proceedings which may heretofore have been required to be done by or under the direction or through the intervention of any of the Masters of the said court, the doing and effectuating of which has not been already provided for, and generally for carrying the purposes of this act into effect, as may be found expedient.

9. The deeds, books, documents, and papers belonging to the suitors in the said court which have been heretofore under the custody of the said Masters in Ordinary shall be transferred to the custody of the Clerks of Records and Writs of the said court, and William Worden, the present office-keeper at the offices in Southampton-buildings, Chancery-lane, where such deeds, books, documents, and papers are deposited, shall have the care of the same, and shall, so far as relates thereto, be considered the officer of the Clerks of Records and Writs, and shall hold such office at the pleasure of the Master of the Rolls; and the said William Worden shall receive, in respect of the duties imposed upon him by this act, such additional yearly salary as the Lord Chancellor shall from time to time direct, not exceeding the net yearly salary of 80*l.*, in addition to his present emoluments as such office-keeper, such additional salary to be payable on the 3rd February, the 3rd May, the 3rd August, and the 3rd November in every year, out of the fund standing in the name of the Accountant-General of the Court of Chancery, intituled "The Suitors' Fee Fund Account;" and on the death, retirement, or removal of the said William Worden, it shall be lawful for the Master of the Rolls to appoint a person to have the care of such deeds, books, documents, and papers, at a yearly salary not exceeding 100*l.*, to be payable out of the fund and at the times last aforesaid, and on any vacancy in such office to supply such vacancy.

10. And whereas, in consequence of the amount of business transacted in the chambers of the Master of the Rolls, it has been found expedient for three years last past to obtain the assistance of Mr. John Arthur Buckley, late chief clerk in the office of one of the Masters in Ordinary: and whereas, having regard to the business transferred to the office of the Master of the Rolls by reason of the final discharge of the Masters, it is expedient that such assistance should be continued: be it therefore enacted, that Mr. John Arthur Buckley shall be continued as an additional clerk in the office of the Master of the Rolls, with the salary he now receives, during such time as the Lord Chancellor shall think fit; and it shall

be lawful for the Lord Chancellor to transfer the said Mr. Buckley, as an additional clerk, to the office of any one of the Vice-Chancellors during such time as he shall think fit: provided, that if the Lord Chancellor shall be of opinion at any time that the state of business no longer requires the services of Mr. Buckley, and he shall be discharged, he, the said Mr. Buckley, shall not be entitled to any compensation: provided always, that in case a new judge shall be appointed in the Court of Chancery, the said Mr. Buckley shall be transferred to and become one of the clerks of such new judge.

11. And whereas, under the said act for abolishing the office of the said Masters in Ordinary, any person who on the first day of Hilary Term, 1852, held the office of junior clerk to any Master in Ordinary, who should be released under the authority of such act, was empowered to make a claim for compensation to the Commissioners of her Majesty's Treasury, at any time after the Master in whose office he should have been employed should have been released: and whereas, at the time when such act was passed, John Elijah Blunt, Esq., was one of the said Masters in Ordinary, and Edward King held the office of his junior clerk: and whereas the said John Elijah Blunt died in the year 1856, without having been released under the authority of such act, by reason whereof the said Edward King is not entitled to make any claim for compensation, as he would have been in case the said John Elijah Blunt had not died, but had been released as aforesaid: be it therefore enacted, that it shall be lawful for the said Edward King to make his claim for compensation to the Commissioners of her Majesty's Treasury, who are hereby empowered to receive and deal with the same in the same manner in all respects as if the said John Elijah Blunt had been released under the authority of the said last-mentioned act.

12. As regards the chief clerks of all the judges of the said court appointed since the 2nd November, 1855, and those to be hereafter appointed, it shall be lawful for the Lord Chancellor, if he shall so think fit, upon the certificate mentioned in the 44th section of the said act of the 15 & 16 Vict. c. 80, to order and direct their salaries respectively to be increased to the full amount authorised by such act at any one period.

13. Where the Lord Chancellor is empowered by this act to make orders or to give directions with respect to prisoners in contempt and pauper defendants, such orders and directions are to be made or given by the Lord Chancellor, Lord Keeper, or Lords Commissioners for the Custody of the Great Seal of the United Kingdom, or the Lords Justices of the Court of Appeal in Chancery only; and where the Court of Chancery is empowered by this act to make such orders or to give such directions, they may be made or given by any judge of the said court.

14. Instead of the salaries directed to be paid by the said act for abolishing the office of the said Masters in Ordinary, and by the act of the 18 & 19 Vict. c. 134, to the two junior clerks thereby respectively authorised to be appointed to each chief clerk, it shall be lawful for the Lord Chancellor, if he shall so think fit, to order and direct that every such junior clerk shall receive a salary of 400*l.* per annum.

#### CAP. CL.

An Act further to amend certain Acts relating to the Temporalities of the Church in Ireland. [28th August, 1860.]

Sect. 1. The term "episcopal commissioner" whom to include.

2. Commissioners may request attendance of bishop, &c.  
3. If two commissioners appointed, one only to be a paid commissioner.

4. As to entries of proceedings at meetings of the board.  
5. Appointment of solicitor.

6. Power to grant superannuation allowance under the authority of the Treasury.

7. Ecclesiastical Commissioners empowered to advance funds for providing licensed places of worship. Consent and approbation of the ordinary to be obtained.

8. Commissioners empowered to enter churches for the purposes of repairs.

9. Commissioners may recover compensation for malicious injuries to churches, by grand jury presentment.

10. Furniture of churches vested in commissioners.
11. Form and fabric of churches, &c. built or maintained by the commissioners not to be altered without consent of the bishop, &c.
12. Commissioners may apply old materials of church to effect repairs.
13. Burial of dead bodies within any church or chapel, or within twelve feet of the outer walls thereof, unlawful. Burial in arched vaults under church or chapel, &c. lawful.
14. Mines.
15. Where mines have been demised.
16. Where mines have not been demised.
17. Additional rent to be reserved.
18. Arbitrators to be appointed in case of dispute.
19. Any estate held by lease or demise immediately under commissioners to be deemed equivalent to an estate of inheritance, and liable to payment of rent-charge.
20. Empowering the renewal of leases of lands, &c. appropriated from ecclesiastical dignities.
21. Further division of rents to follow that of lands.
22. Sub-tenants empowered to purchase perpetuities required to furnish copies of valuations, &c.
23. No purchase to take place without valuation being furnished.
24. Surveyors employed by Ecclesiastical Commissioners empowered to enter upon lands and premises.
25. Ecclesiastical Commissioners may serve notices upon sub-tenants applying for purchase, and upon the immediate tenant and any intervening tenant.
26. Sects. 160 and 161 of the 3 & 4 Will. 4, c. 37, repealed. Notice of period at which leases are renewable to be served on tenant.
27. After service of notice renewal of lease to be made on application from tenant.
28. Commissioners to fix and demand renewal fines in certain cases.
29. Application for renewal to be signed by the person entitled to such renewal, and specify his residence in Ireland, and post town.
30. Commissioners may lend money out of the Perpetuity Purchase Fund for building glebe-houses. Instalments payable on foot of loan to be allowed in valuation of rectory, &c. for the purpose of tax.
31. Commissioners may forego collection of loans by Commissioners of First Fruits for erection of glebe-houses.
32. Power to apply any part of the funds vested in them (except Boulter's and Robinson's) to augment small benefices.
33. Distinct and separate accounts to be kept in the books of the commissioners of all sums applicable for augmentation purposes.
34. Mortgages to be made to commissioners.
35. Mortgages not to affect rights reserved.
36. Power to repair cathedral church of the Holy Trinity, Down.
37. Ecclesiastical Commissioners empowered to pay perpetual curates for the parish of Monkstown.

CAP. CLI.

An Act for the Regulation and Inspection of Mines.  
[28th August, 1860.]

- Sect. 1. *No boy under twelve years of age to be employed in mines.*
2. *Exception for boys between ten and twelve who have certificates as to education and school attendance.*
  3. *Penalty on grant of false certificates.*
  4. *Recital of sect. 8 of the 5 & 6 Vict. c. 99. Steam-engines in certain cases not to be under the charge of persons under eighteen.*
  5. *Foregoing provisions to be construed with the 5 & 6 Vict. c. 99.*
  6. *The 18 & 19 Vict. c. 108, repealed.*
  7. *Mines to which Part II of this act is to extend. Interpretation of terms.*
  8. *Power to Secretary of State to appoint inspectors of mines.*
  9. *No land agent or manager of mine to act as inspector.*

10. *General rules to be observed in coal and ironstone mines.*
11. *Special rules to be also established.*
12. *Present special rules to continue in force.*
13. *New special rules, how to be established.*
14. *Special rules may be amended from time to time.*
15. *Publication of rules.*
16. *Powers and duties of inspectors.*
17. *Inspector to give notice of causes of danger not provided for by the rules.*
18. *Owners of mines to produce maps or plans of mines to inspector. If owners do not produce maps, &c., inspector may require them to be made.*
19. *Notice of accidents in mines to be given to Secretary of State.*
20. *Provision for adjournment of inquests on deaths from accidents in mines in certain cases.*
21. *Notice to be given to inspector of the abandonment and opening of mines.*
22. *Penalties for offences against this act.*
23. *Penalty for obstructing inspectors.*
24. *Penalty for defacing notices.*
25. *Penalties, how recoverable.*
26. *Certified copy of special rules to be evidence.*
27. *Reports of inspectors to be laid before Parliament.*
28. *Wages to be paid to person employed in mines, or his representative, in money.*
29. *Where payment of persons employed in mines is by weight, &c., an account may be taken.*
30. *Extent of act.*
31. *Commencement of act.*

The preamble recites the 5 & 6 Vict. c. 99, and the 18 & 19 Vict. c. 108.

I.—*Provisions applicable to all Mines.*

Sect. 1. After the 1st July, 1861, it shall not be lawful for the owner of any mine or colliery to employ any male person under the age of twelve years within such mine or colliery, or to permit any such male person to work, or be therein for the purpose of working therein, other than such as at the passing of this act shall have attained the age of ten years, and were at or before the passing of this act employed within the same or some other mine or colliery; and the said act of the 5 & 6 Vict. [c. 99], and all the provisions and penalties thereof, shall be construed and take effect as if the age of twelve years had been mentioned in sect. 2 of the said act instead of the age of ten years, subject to the proviso herein-after contained.

2. Provided, that a boy above the age of ten years and under the age of twelve years may be employed in a mine or colliery upon either of the following conditions; that is to say—

That before any such boy is so employed, the owner of the mine shall, after the 1st July, 1861, obtain a certificate under the hand of a competent schoolmaster that such boy is able to read and write:

Or, that in the second and every subsequent lunar month during which such boy is employed in such mine or colliery, the owner shall obtain a certificate under the hand of a competent schoolmaster that such boy has attended school for not less than three hours a day for two days in each week during the lunar month immediately preceding, exclusive of any attendance on Sundays:

And the owner shall file and preserve such certificates as aforesaid so long as such boy shall continue in the employment, and during six months after the termination of such employment, and shall produce during such time such certificates to any inspector under the said act of the 5 & 6 Vict. [c. 99], or to any inspector of coal mines and ironstone mines, when required so to do by any such inspector.

3. Every person giving a false certificate for the purposes of this act shall for every such offence forfeit a sum not more than 10*l.* nor less than 5*l.*; and such offence shall be dealt with as an offence against the said act of the 5 & 6 Vict. [c. 99].

4. And whereas, by sect. 8 of the said act of the 5 & 6 Vict. [c. 99], it is provided, that where there shall be any entrance to a mine or colliery by means of a vertical shaft or pit or inclined plane, or where there shall be any communication within any part of a mine or colliery to any other part thereof

by a vertical shaft or pit or inclined plane, then it shall not be lawful for any owner of any such mine or colliery to allow any person or persons, other than a male of the age of fifteen years and upwards, to have charge of any steam-engine or other engine, windlass, or gin, (whether driven or worked by manual labour or any other power whatsoever), or to have charge of any part of the machinery, ropes, chains, or other tackle of any such engine, by or by means of which engine, machinery, ropes, chains, or other tackle, persons are brought up or passed down any such vertical shaft or pit or inclined plane: it shall not be lawful, in any such case as in the said provision mentioned, for the owner of the mine or colliery to allow any person, other than a male of the age of eighteen years or upwards, to have charge of any steam-engine, or of any part of the machinery, ropes, chains, or other tackle of any such engine, by or by means of which engine, machinery, ropes, chains, or other tackle, persons are brought up or passed down any such vertical shaft or pit or inclined plane; and any person offending against this enactment shall be subject to the penalty imposed by the recited provision for offending against the same.

5. The foregoing provisions of this act shall extend to all mines in Great Britain, and shall be construed with the said act of the 5 & 6 Vict. [c. 99], as one act.

#### II.—*Provision for Inspection and Regulation of Coal Mines and Ironstone Mines.*

6. The said act of the 18 & 19 Vict. [c. 108], shall be repealed: provided always, that the inspectors of coal mines appointed under such act shall continue to be inspectors under this act of the mines to which the provisions hereinafter contained extend, subject nevertheless to removal by one of her Majesty's Principal Secretaries of State, and subject to all other the same provisions, and with the same powers, as if appointed under this act: provided also, that all penalties incurred under the said act before the repeal thereof may be proceeded for and applied as if this act had not been passed.

7. The provisions hereinafter contained shall extend to all coal mines and collieries and mines of ironstone of the coal measures, and worked in connexion with coal or with any disused or exhausted coal mines; and in the construction of such provisions the terms "coal mine or colliery or ironstone mine" shall mean every such mine and colliery as aforesaid, and every shaft in the course of being sunk, and every level or inclined plane in the course of being driven for commencing or opening any such mine, and all the works belonging thereto respectively; the term "owner" shall mean the immediate proprietor, lessee, or occupier of a coal mine or colliery or ironstone mine, or of any part thereof; and the term "agent" of a coal mine or colliery or ironstone mine shall mean any person having, on behalf of the owner, the care or direction thereof; and the term "inspector" or "inspectors" shall respectively mean an inspector or inspectors of coal mines and ironstone mines appointed or continued under this act; and the term "district" shall mean the portion of Great Britain assigned or which shall be assigned to any one of such inspectors; and the word "sheriff" shall include sheriff substitute.

8. It shall be lawful for one of her Majesty's Principal Secretaries of State from time to time to appoint any fit person or persons to be an inspector or inspectors of coal mines and ironstone mines under this act, and from time to time to remove any such inspector or inspectors; and notice of the appointment of every such inspector shall be published in the London Gazette.

9. No person who shall act or practise as a land agent, or as a manager, viewer, or agent, or mining engineer, or valuer of mines, or arbitrator in any matters of dispute arising between owners of mines, or be otherwise employed in any mine, shall act as an inspector of mines under this act.

10. The following rules (hereinafter referred to as the general rules) shall be observed in every colliery or coal mine and ironstone mine by the owner and agent thereof:—

- (1). An adequate amount of ventilation shall be constantly produced in all coal mines or collieries and ironstone mines to dilute and render harmless noxious gases, to such an extent that the working-places of the pits, levels, and workings of every such colliery and mine, and the travelling roads to and from such working-places, shall, under ordinary circum-

stances, be in a fit state for working and passing therein:

- (2). All entrances to any place not in actual course of working and extension, and suspected to contain dangerous gas of any kind, shall be properly fenced off so as to prevent access thereto:
- (3). Whenever safety lamps are required to be used, they shall be first examined and securely locked by a person or persons duly authorised for this purpose:
- (4). Every shaft or pit which is out of use, or used only as an airpit, shall be securely fenced:
- (5). Every working and pumping pit or shaft shall be properly fenced when operations shall have ceased or been suspended:
- (6). Every working and pumping pit or shaft where the natural strata, under ordinary circumstances, are not safe, shall be securely cased or lined, or otherwise made secure:
- (7). Every working pit or shaft shall be provided with some proper means of communicating distinct and definite signals from the bottom of the shaft to the surface, and from the surface to the bottom of the shaft:
- (8). All underground self-acting and engine planes on which persons travel are to be provided with some proper means of signalling between the stopping-places and the ends of the planes, and with sufficient places of refuge at the sides of such planes at intervals of not more than twenty yards:
- (9). A sufficient cover overhead shall be used when lowering or raising persons in every working pit or shaft, where required by the inspectors:
- (10). No single-linked chain shall be used for lowering or raising persons in any working pit or shaft, except the short coupling chain attached to the cage or load:
- (11). Flanges or horns of sufficient length or diameter shall be attached to the drum of every machine used for lowering or raising persons:
- (12). A proper indicator to shew the position of the load in the pit or shaft, and also an adequate break, shall be attached to every machine, worked by steam or water power, used for lowering or raising persons:
- (13). Every steam boiler shall be provided with a proper steam gauge, water gauge, and safety valve:
- (14). The fly wheel of every engine shall be securely fenced:
- (15). Sufficient bore holes shall be kept in advance, and, if necessary, on both sides, to prevent inundations in every working approaching a place likely to contain a dangerous accumulation of water.

11. In addition to the general rules, there shall be established and observed in every coal mine, colliery, or ironstone mine such other rules (hereinafter referred to as special rules) for the conduct and guidance of the persons acting in the management of such coal mine, colliery, or ironstone mine, and of all persons employed in or about the same, as under the particular state and circumstances of such coal mine, colliery, or ironstone mine may appear best calculated to prevent dangerous accidents.

12. The special rules now established and in force under the act hereby repealed, in any coal mine or colliery, shall remain and be the special rules therein, and be of the same force and subject to be amended by the same authority and in like manner as if established under this act.

13. The owner of every ironstone mine and of every coal mine or colliery in which special rules are not now established and in force as aforesaid shall frame and transmit to one of her Majesty's Principal Secretaries of State special rules for such ironstone mine and coal mine or colliery respectively: provided always, that such special rules shall be hung up in the manner provided in the 15th section of this act for the period of fourteen days before the same are transmitted to the Secretary of State; such special rules for every such mine or colliery in work at the commencement of this act to be framed and transmitted as aforesaid within three months after such commencement, and for every such mine or colliery not then in work to be so framed and transmitted within three months after the working of such mine or colliery shall be commenced or renewed; and such rules, if not objected to by



such Secretary of State within forty days from the day upon which they are received by him, shall be established :

If such Secretary of State be of opinion that such rules, or any of them, do not sufficiently provide for the safety of the persons employed in or about such mine or colliery, he may within such forty days propose any alterations in or additions to such special rules, or the substitution of any other rules for such special rules or any of them :

If such owner within twenty days object to any such alterations or additions, or rules by way of substitution proposed as aforesaid, he may within fourteen days after he has so objected nominate five or more practical mining engineers or other competent persons of experience, and who shall not be interested in or employed in the management of such mine or colliery, of whom such Secretary of State shall appoint one or more to be an arbitrator or arbitrators to determine the matters in difference, and to decide what special rules shall be established in such mine or colliery, and the determination of such arbitrator, or of such arbitrators or the majority of them if more than one, shall be final, and the special rules shall be established accordingly :

If such owner do not within such fourteen days nominate such mining engineers or other competent persons as aforesaid, then two such mining engineers, or other competent persons as aforesaid, shall be appointed arbitrators, one of whom shall be named by such owner, and the other by the inspector of the district :

The said arbitrators so appointed shall, before they proceed in the arbitration, appoint a third person, being such mining engineer, or other competent person as aforesaid, to be their umpire in case of difference of opinion between them, and in case such arbitrators so appointed refuse or neglect to appoint such umpire as aforesaid for the space of seven days after their appointment, or of the appointment of such one of them as was last appointed, the chairman of the general or quarter sessions of the peace in and for the county, riding, or division where such mine or colliery may be situate in England, and the sheriff of the county or division of the county where such mine or colliery may be situate in Scotland, upon the application in writing by or on behalf of such owner, or the inspector of the district, shall appoint such umpire ; and the determination of such arbitrators and the said umpire, or of any two of them, shall be final, and the special rules shall be established accordingly :

In case of the death, incapacity, or refusal or neglect to act of any arbitrator appointed under this act, another arbitrator shall be appointed in his place in manner following ; that is to say, in case the place to be supplied be that of an arbitrator appointed from among the nominees of the owner of a mine or colliery, then another arbitrator shall be appointed by the Secretary of State from among such of the said nominees as may not have been appointed as hereinbefore mentioned an arbitrator or arbitrators, or, in case of notice to that effect from the Secretary of State to such owner, shall be appointed by the Secretary of State from among five competent persons to be, within fourteen days after receipt of such notice, nominated by such owner to the Secretary of State ; and in case the vacancy be that of an arbitrator appointed by the owner or the inspector of the district, such vacancy shall be supplied by such owner or the inspector of the district, as the case may require ; and in case of the death, incapacity, or refusal or neglect to act of any umpire appointed as aforesaid, or of the death, incapacity, or refusal or neglect to act of either of the arbitrators originally appointed before the appointment of an umpire, the provisions herein contained concerning the appointment of an umpire by such arbitrators, and concerning the appointment of an umpire in default of such appointment by such arbitrators, shall respectively be applicable to authorise the appointment of such umpire by the arbitrators for the time being, and to the case of default by them to make such appointment within seven days after notice in writing from either of the arbitrators to the other of them of the death, incapacity, or refusal or neglect to act of the umpire, and to the case of default by the arbitrators for the time being to appoint an umpire within seven days after their appointment, or of the appointment of such one of them as was last appointed :

If such owner do not, within twenty days from the day on which such alterations or additions, or such rules by way of substitution, are proposed to him, object to the same, or not having made such nomination to the Secretary of State as

herein provided) do not, within fourteen days after having objected as aforesaid, appoint an arbitrator, and give notice in writing of such appointment to the inspector of the district, or in case of the death, incapacity, or refusal or neglect to act of any arbitrator appointed from among nominees of such owner, do not, within fourteen days after receipt of such notice from the Secretary of State as aforesaid, nominate five competent persons to the Secretary of State as aforesaid, or do not within the like period, after notice to such owner by the inspector of the district of the death, incapacity, or refusal or neglect to act of any arbitrator appointed by such owner, appoint an arbitrator, and give notice in writing of such appointment to the inspector of the district, the special rules framed by such owner as altered, added to, or modified by the Secretary of State shall be established :

The amount of payment to be made to the arbitrator or arbitrators and umpire (if any) for his or their services shall be fixed by the Secretary of State, and paid in equal moieties by the owner of the mine or colliery to which the arbitration relates, and the Commissioners of her Majesty's Treasury, who are hereby authorised to make such payment accordingly out of any monies provided by Parliament for that purpose.

14. Provided, that, after such special rules are established, it shall be lawful for the owner of the mine or colliery to propose from time to time, in writing, to one of her Majesty's Principal Secretaries of State, any amendment of such rules, and the provisions in relation to the original special rules framed by the owner, and proposals in relation thereto by the Secretary of State, and the first establishment of special rules, shall apply to the amendments so proposed ; and the Secretary of State may from time to time propose, in writing, to the owner of a mine or colliery, any amendments to the special rules thereof ; and the provisions in relation to alterations or the substitution of other rules proposed by the Secretary of State, where original special rules are transmitted to him, and the establishment of rules or modifications of rules proposed by him, shall apply to the amendments so proposed by him under this enactment.

15. For the purpose of making known the general rules and special rules to all persons employed in or about each coal mine, colliery, or ironstone mine, the owner or agent thereof shall cause the general rules and the special rules for such coal mine, colliery, or ironstone mine to be painted on a board, or printed upon paper to be pasted thereon, and shall cause such board to be hung up or affixed on some conspicuous part of the principal office or place of business at the coal mine, colliery, or ironstone mine, and at the place where the workmen are paid ; and the general rules and special rules, so painted or printed and hung up, shall be renewed and restored with all reasonable despatch as often as the same or any part thereof may be defaced, obliterated, or destroyed ; and a printed copy of such general and special rules shall be supplied to all persons employed in and about the same who shall apply for such copy.

16. It shall be lawful for any inspector to enter, inspect, and examine any coal mine, colliery, or ironstone mine, and the works and machinery belonging thereto, at all reasonable times, by day or night, but so as not to impede or obstruct the working of the said coal mine, colliery, or ironstone mine, and to make inquiry into and touching the state and condition of such coal mine, colliery, or ironstone mine, works, and machinery, and the ventilation of such coal mine, colliery, or ironstone mine, and the mode of lighting or using lights in the same, and into all matters and things connected with or relating to the safety of the persons employed in or about the same, and especially to make inquiry whether the provisions of this act are complied with in relation to such coal mine, colliery, or ironstone mine ; and the owner or agent of such coal mine, colliery, or ironstone mine is hereby required to furnish the means necessary for such entry, inspection, examination, and inquiry.

17. If any inspector find, on any such inspection, examination, or inquiry, any mine or colliery, or the works or machinery belonging thereto, or any matter, thing, or practice in or connected with such mine or colliery, to be (otherwise than as provided against by any express provision of this act, or the general or special rules thereunder) dangerous or defective, so as in his opinion to threaten or tend to the bodily injury of any person, such inspector shall give notice in writing to the owner or agent of such mine or colliery of the



particular grounds on which such inspector is of opinion that the said mine or colliery, or any part thereof, or any other of the particulars aforesaid, is dangerous or defective, and shall also report the same to one of her Majesty's Principal Secretaries of State :

If the owner or agent object to remove or remedy the danger or defect which is the subject of such notice, he may within twenty days after the receipt of such notice give notice in writing of the objections of such owner or agent, and of the grounds thereof, to the said inspector and to one of her Majesty's Principal Secretaries of State, and nominate to such Secretary of State five or more practical mining engineers or other competent persons of experience who shall not be interested in or employed in the management of such mine or colliery, of whom the Secretary of State shall appoint one or more to be an arbitrator or arbitrators, and thereupon further proceedings shall be had for the determination of the matters in difference by arbitration, as herein provided in the case of the special rules :

If such owner or agent do not give such notice and make such nomination as aforesaid within the time aforesaid, the owner of such mine or colliery shall be liable to a penalty of 1*l.* for every day beyond the said twenty days during which he neglects to take proper and active measures for removing or remedying the danger or defect which is the subject of the said notice given by the inspector :

If the said owner or agent give such notice and make such nomination as aforesaid within the time aforesaid, and the matters in difference be determined by arbitration, then if, after the said owner or agent has been furnished with a copy of the award attested by the inspector for the district, the said owner or agent neglect forthwith to take proper and active measures for removing or remedying any danger or defect which, according to such award, ought to be removed or remedied, the owner of such mine or colliery shall be liable to a penalty of 1*l.* for every day after the receipt by the said owner or agent of such copy of the award during which the said owner or agent so neglects.

18. The owner or agent of every coal mine, colliery, or ironstone mine shall, on the occasion and for the purpose of the inspection and examination thereof, produce and submit for examination to any such inspector as aforesaid, at the mine which is to be inspected, an accurate map or plan of the workings of such coal mine, colliery, or ironstone mine; and if such owner or agent do not produce and submit for examination as aforesaid such a map or plan as aforesaid, or if any such inspector as aforesaid find that any portion of any map or plan is withheld, or any part of the workings of any such coal mine, colliery, or ironstone mine is concealed from his inspection, or if he find, on examining and verifying any map or plan, that the same is imperfect or inaccurate, he is hereby empowered to require that an accurate map or plan of the actual workings of such coal mine, colliery, or ironstone mine be made within a reasonable time by and at the expense of the owner of such coal mine, colliery, or ironstone mine, on a scale of not less than two chains to one inch, or on such other scale as the plan then used in the mine is constructed on; and every such map or plan as aforesaid shall shew the workings of the mine up to within six months of the time of inspection; and the owner or agent of the coal mine, colliery, or ironstone mine shall, if required so to do by any such inspector as aforesaid, mark or cause to be marked on such map or plan the progress of the workings of the coal mine, colliery, or ironstone mine up to the time of his inspection thereof: provided, that nothing herein contained shall be construed to authorise any inspector to make a copy of the whole or any part of a map or plan which shall be produced or made.

19. If and when loss of life or any personal injury to any person employed in or about any coal mine, colliery, or ironstone mine occurs by reason of any explosion, and if and when loss of life or serious personal injury to any person so employed occurs by reason of any other accident whatever within such coal mine, colliery, or ironstone mine, or any pits or shafts thereof, or any works or machinery connected with such pits or shafts, the owner or agent of such coal mine, colliery, or ironstone mine shall, within twenty-four hours next after such accident, send notice of such accident, and the loss of life or personal injury occasioned thereby, under the hand of such owner or agent, in England to one of her Majesty's Principal Secretaries of State, in Scotland to

the Lord Advocate, and in all cases to the inspector of the district within which such accident shall occur, and shall specify in such notice the probable cause of such accident, and such notice may be sent through the Post-office by letter addressed to such Secretary of State or Lord Advocate, and to the inspector of the district at his usual place of residence; and every owner or agent who neglects to send or cause to be sent such notice as aforesaid, within the time aforesaid, shall for such offence be liable to a penalty not exceeding 20*l.*

20. Every coroner holding an inquest upon the body of any person whose death may have been caused by any such accident as aforesaid shall, unless the inspector of the district or some person on behalf of the Secretary of State be present to watch the proceedings at such inquest, adjourn such inquest, and by letter sent through the Post-office four days at the least before holding such adjourned inquest, addressed to the inspector of the district, give notice to such inspector of the time and place of holding the same: provided, that such coroner may, before the adjournment of any such inquest, take evidence to identify the body, and may order the interment thereof: provided also, that if the accident has not occasioned more than one death, and notice of the inquest has been given by the coroner to the inspector of the district by letter sent through the Post-office not less than forty-eight hours before the time of holding the inquest, it shall not be imperative on the coroner to adjourn such inquest as aforesaid, in case the majority of the jury think it unnecessary so to adjourn; and the inspector shall be at liberty to examine any witness at any such inquest, subject to the order of the coroner.

21. Where any coal mine, colliery, or ironstone mine is abandoned, or the working thereof discontinued, or where the working thereof is recommenced after abandonment or discontinuance for a period exceeding two months, or where any workings are commenced for the purpose of opening a new coal mine or ironstone mine, the owner or agent of the respective mine or working shall in every such case give notice thereof to the inspector of the district, by letter sent through the Post-office, within two months after such abandonment, discontinuance, recommencement, or commencement of working, as the case may be; and where any such mine or colliery is abandoned, or the working thereof discontinued, the owner thereof shall cause the same to be, and to be kept, securely fenced, for the prevention of accidents.

22. If any coal mine, colliery, or ironstone mine be worked, and, through the default of the owner or agent thereof, special rules have not been established for the same according to the provisions of this act, or the general rules or the special rules for such coal mine, colliery, or ironstone mine, by this act required to be established, have not been hung up or affixed, or have not, after obliteration or destruction, been renewed or restored as required by this act, or any of such general rules or special rules, provisions of which ought to be observed by the owner and principal agent or viewer of such coal mine, colliery, or ironstone mine, be neglected or wilfully violated by any such owner, agent, or viewer, such person shall be liable to a penalty of not exceeding 20*l.*; and also, in case the default or neglect be not remedied with all reasonable despatch, after notice in writing thereof given by an inspector to the owner or agent of such coal mine, colliery, or ironstone mine, to a further penalty of 1*l.* for every day during which the offence continues after such notice; and every person, other than aforesaid, employed in or about a coal mine, colliery, or ironstone mine, who neglects or wilfully violates any of the special rules established for such coal mine, colliery, or ironstone mine, shall for every such offence be liable, upon a summary conviction for the same before two justices of the peace, or, in Scotland, before the sheriff having jurisdiction in the county or place where the offence is committed, to a penalty not exceeding 2*l.*, or to be imprisoned, with or without hard labour, in the common gaol or house of correction for any period not exceeding three calendar months: provided always, that no justice of the peace, being the owner of the mine, or the father, son, brother, or agent of any owner of the mine, in which the offence set forth in the complaint shall have been committed, shall, at the hearing of any complaint or charge, act as a justice of the peace for the purposes of conviction or adjudication in any cases of dispute or difference between persons employed

in working mines and their employers, in which justices of the peace have jurisdiction.

23. Every person who wilfully obstructs any inspector in the execution of this act, and every owner or agent of any coal mine, colliery, or ironstone mine who refuses or neglects to produce, as hereinbefore required, a map or plan of the workings of the mine to any inspector, or to furnish to such inspector the means necessary for making any entry, inspection, examination, or inquiry under this act, or who neglects or wilfully violates any provision of this act, for the neglect or violation of which no other penalty is hereby imposed, shall for every such offence be liable to a penalty not exceeding 10*l*.

24. Every person who pulls down, injures, or defaces any notice hung up or affixed, as required by this act, shall for every such offence be liable to a penalty of not exceeding 40*s*.

25. All penalties imposed by this act may be recovered in a summary manner before two justices of the peace, or, in Scotland, before the sheriff having jurisdiction in the county or place where the offence is committed, in the manner prescribed by the law in that behalf, the information to be laid, or action raised, within three months after the commission of the offence; and it shall be lawful for one of her Majesty's Principal Secretaries of State to direct that any penalty imposed for neglecting to send or cause to be sent notice of any accident, as required by this act, or for any offence against this act which may have occasioned loss of life or personal injury, shall be paid to or among any of the family or relatives of any person or persons whose death may have been occasioned by such accident or offence, and not being a person or persons who occasioned or contributed to occasion the accident, or to any person or persons, not being the offender or offenders, who may have sustained personal injury occasioned by such accident or offence, as he may think fit; and, save as aforesaid, all penalties imposed by this act shall, when recovered, be paid into the receipt of her Majesty's Exchequer in such manner as the Commissioners of her Majesty's Treasury may direct, and shall be carried to and form part of the Consolidated Fund of the United Kingdom.

26. A copy of the special rules for the time being established in any coal mine, colliery, or ironstone mine, certified under the hands of one of the inspectors to be a copy of the special rules established in such coal mine, colliery, or ironstone mine, shall be evidence of such special rules, and of their being duly established under this act, without further proof; and such inspector shall certify such copy when required.

27. Every inspector shall, on or before the 1st March in every year, make a separate and distinct report in writing of his proceedings during the preceding year, and shall transmit the same to one of her Majesty's Principal Secretaries of State, and a copy of such report shall be laid before both Houses of Parliament.

28. The wages of each and every person employed in any coal mine, colliery, or ironstone mine shall be paid to him or his representative authorised or deputed to that effect, by his immediate employer, in money, at an office to be appointed for that purpose in the special rules for such mine or colliery; and such office shall not be contiguous to any house where spirits, wine, beer, or other spirituous liquors are sold; and every owner or agent, or such employer, who shall pay or permit any wages to be paid contrary to the provisions of this act, shall for every such offence be liable to a penalty not exceeding 10*l*.

29. Where the persons employed in any coal mine, colliery, or ironstone mine are paid by the weight, measure, or gauge of the coal, ironstone, or other material gotten by them, such coal, ironstone, or other material shall be truly weighed, measured, or gauged accordingly; and it shall be lawful for such persons, at their own cost, to station a person (being one of the persons for the time being employed in such coal mine, colliery, or ironstone mine) at the place appointed for such weighing, measuring, or gauging, in order to take an account thereof, and to take an account of the weight, measure, or gauge used therein on behalf of such persons by whom he is so employed; but such person so employed shall not be authorised in any way to impede or interrupt the working of the coal mine, colliery, or ironstone mine, or to interfere with the weighing, measuring, or gauging, but shall only be authorised to take such account as

aforesaid; and the absence of such person shall not be a reason for delaying or interrupting such weighing, measuring, or gauging.

30. This act shall not extend to Ireland.

31. This act shall commence from the 31st December, 1860.

# CAP. CLII.

An Act to facilitate internal Communication in Ireland by means of Tramroads or Tramways.

[28th August, 1860.]

Sect. 1. Notice by advertisement, as in Schedule (A.), part 1.

2. Deposit of plan, section, &c., as in Schedule (A.), part 2.

3. Notice to owners of lands, as in Schedule (A.), part 3.

4. Deposit of memorial and estimate, and lists, as in Schedule (A.), part 4.

5. Preliminary inquiry by grand jury at summer assizes.

6. Tramway not wholly in one county.

7. Appeal to Lord-Lieutenant in council against disapproval.

8. On disapproval, &c., application deemed to have failed.

9. On approval, local public inquiry by board of works, as in Schedule (A.), part 5.

10. At spring assizes definitive approval or disapproval.

11. Appeal, &c. as before.

12. Notice, &c. of appeal.

13. On definitive approval, Lord-Lieutenant in council to make order.

14. Order to be confirmed by act of Parliament.

15. If desired by promoters, company to be constituted by the order.

16. Order to prescribe capital, &c.

17. Order may empower company to borrow, under restrictions.

18. Order to prescribe for management, &c. of company.

19. Railways Clauses Consolidation Act and others incorporated with order in council.

20. Construction of incorporated acts with order in council.

21. Plan and section of authorised alterations to be deposited before tramway is begun.

22. Plan and section furnished to board of works to be sufficient for the purposes of stat. 14 & 15 Vict. c. 70.

23. Some provisions of incorporated acts excepted.

24. Construction and gauge.

25. Maximum tolls and rates of charge, with regulations in Schedule (B.)

26. Tramway may be varied, enlarged &c.

27. Time for completion may be extended, or abandonment may be authorised.

28. On abandonment, damage to be made good, and land taken to be used for highway purposes, or to go back to the original owner.

29. Deposit as security for completion by a company.

30. Deposit where time extended.

31. In other cases other security for completion to be taken.

32. Expenses to be paid by promoters.

33. Power to promoters and county surveyor to enter and survey.

34. Rules as to deposits.

35. Secretary of grand jury, &c. to permit inspection, &c.

36. Proceedings of grand jury to be part of fiscal business.

37. Counties of Dublin and of city of Dublin.

38. Tramway in city or town.

39. As to altering level of streets when tramways pass through towns.

40. Persons interested in tramways not to vote, but not to be disqualified.

41. Promoters of tramways on tidal lands to deposit map at the Admiralty.

42. Lands not to be taken without the owner's consent, except lands adjoining to public roads.

43. Demeanes, &c. not to be taken without the owner's consent.

44. Owners of sewers, &c. not to be impeded from access.

45. Lord-Lieutenant in council may make general rules for the execution of this act.

46. General railway acts in Schedule (C.) to apply to tramways.

47. Tramways not exempted from future general acts.
48. Order in council may apply amended standing orders.
49. Interpretation of terms.
50. Extent of act. Short title.

## CAP. CLIII.

An Act to amend the Law relating to the Tenure and Improvement of Land in Ireland. [28th August, 1860.]

- Sect. 1. Short title.
2. Application of act.
3. Commencement of act.
4. Clerk of the peace.
5. Chairman.
6. Definition of "settlement."

PART I.—*Landlord's Improvements.*

7. Definition of "limited owner."
8. Guardians to be deemed limited owners in certain cases.
9. Definition of "successor."
10. Limited owner entitled to compensation for improvements.
11. Definition of "improvements."
12. Mode of application.
13. Officer of the Landed Estates Court to give notice of statement.
14. Duty of court on application.
15. Judge may sanction improvements.
16. Power of successor to inspect.
17. Statement of expenditure to be lodged with the officer of the Landed Estates Court.
18. Officer of the Landed Estates Court to advertise statement.
19. Judge to make charging order.
20. Registry of charging order.
21. Death of limited owner.
22. Nature of annuity.
23. Maintenance of improvements.

PART II.—*Leasing Powers.*

24. Extended definition of "limited owner."
25. Power of limited owner to lease.
26. Mode of obtaining the sanction of court.
27. Duty of court on application.
28. Effect of lease.
29. Leases under this act subject to jurisdiction of court of equity in certain cases.
30. Prohibitions as to mansions and demesne lands.
31. Powers or act to be cumulative.
32. Provision in cases in which power to make leases is not within exact terms of act or settlement.

PART III.—*Tenant's Improvements.*

33. Application of part of act.
34. Tenant.
35. Owner.
36. Tenant entitled to compensation for improvements.
37. Definition of "improvements."
38. Agreement with or notice to owner.
39. Owner by agreement with tenant may execute works.
40. Consent of owner.
41. Statement of expenditure to be lodged with the clerk of the peace.
42. Clerk of the peace to give notice to owner.
43. Hearing of case.
44. Labour of tenant to be taken into account.
45. Maintenance of improvements.
46. Order, how made absolute.
47. Notice to be given to owner of application for order absolute.
48. Death of tenant.
49. Nature of annuity.
50. Registry of orders to be kept by clerk of the peace.
51. Appeal from decision of chairman upon application for a charging order.
52. Certificate of completion, when contested, not to be registered until after time for appealing.

PART IV.—*General Provisions.*

53. Restriction of maximum amount of charges.
54. Where tenant becomes entitled to annuity, owner may redeem same.

55. Recovery of annuity.
56. Provision as to arrears of annuity.
57. Service of notices.
58. Rules as to notices by post.
59. An order to be evidence of compliance with act.
60. Power of Landed Estates Court to make regulations.
61. Power of chairmen to make regulations.
62. Nothing to affect usages, &c.

## CAP. CLIV.

An Act to consolidate and amend the Law of Landlord and Tenant in Ireland. [28th August, 1860.]

- Sect. 1. Construction of certain terms in this act.
2. Short title.

*Construction of Tenancy.*

3. Relation to rent on contract of parties.
4. Contract for definite periods to be by deed, or note in writing.
5. Continuance after expiration of contract.
6. Presumed commencement of tenancy.
7. Surrenders to be in writing.
8. Lease may be renewed without surrender of under-tenancies.
9. As to assignment of estate and interest of tenant.
10. Assignment contrary to agreement.
11. Assignee liable to condition against assignment.
12. Benefit of covenants and agreements transferred to assignee of the landlord.
13. Benefit of covenants and agreements transferred to assignee of the tenant.
14. Liability of assignee to cease after assignment over.
15. Assignee liable till end of accruing gale.
16. Adoption of assignee discharge of tenant from covenants.
17. Fixtures of trade or agriculture erected by the tenant may be removed.

*Sub-letting.*

18. Sub-letting contrary to agreement to be void.
19. Sub-letting with consent to free sub-tenant from double charge.
20. Landlord's notice to sub-tenant to pay rent to him.
21. Sub-tenant's election to pay rent to landlord.
22. Provision for sub-letting with consent.

*Evidence.*

23. Proof of contents of lease.
24. Proof of landlord's title, when derivative.

*Mines, &c., Rights and Reservations.*

25. Tenant in fee-farm not impeachable of waste.
26. Tenant of lesser interest not to open mines or quarries.
27. Tenant may work mines already opened.
28. Tenant may work quarries already open, but not for profit or sale.
29. Tenant may cut turf, but not for sale.
30. Tenant shall not burn land.
31. Tenant shall not cut or lop trees.
32. Where mines reserved, landlord may work or lease the mines.
33. Compensation to be ascertained by the chairman.
34. Tenant, in lieu of emblements, shall continue to hold until last gale day of current year.

*Prevention of Waste, and Law of Repairs.*

35. Magistrate's precept to restrain waste.
36. Punishment of disobedience of precept.
37. Annulling precept of magistrate.
38. Landlord may enter to inspect waste.
39. Ordinary civil remedies preserved.
40. Destruction of subject of the lease to determine the tenancy.

*Covenants and Conditions.*

41. Covenants implied on behalf of the landlord.
42. Covenants implied on behalf of the tenant.
43. Waiver and dispensation of covenants.
44. Surrender of portion of premises not to prejudice rights of landlord.

*Actions for Rent.*

45. Action for rent in arrears.
46. Action for use and occupation.

47. Receipts to apply to last gale.
  48. Set-off against rent.
  49. Apportionment of rent where lease has continuance.
  50. Providing for cases not coming within the provisions of clause 34.
  51. No distress for more than one year's rent.
  52. Ejectment for year's rent unpaid.
  53. Reversion and fictions unnecessary.
  54. Form of civil bill for non-payment of rent, as in Schedule (A.)
  55. Who to be served with summons and process in ejectment.
  56. Service on persons in possession.
  57. Service where no person in possession.
  58. Judgment and decree by default.
  59. Defence to civil bill.
  60. Summons and process to state amount of rent claimed.
  61. Where amount disputed, lodgment may be made with clerk of the peace.
  62. Lodgment in court of rent, and undertaking to pay costs.
  63. Tender before civil bill decree executed.
  64. Tender before writ of habere executed.
  65. Amount of rent to be indorsed on execution, and payable to sheriff.
  66. Remedy for rent not prejudiced by recovery of possession.
  67. Writ of error no stay of execution unless bail given.
  68. Appeal from civil bill decree.
  69. Appeal not to stay execution unless rent lodged.
  70. Restitution to be applied for within six months. *Proviso.*
  71. Court may award restitution of possession in certain cases.
- Ejectment for overholding.*
72. Overholding of tenements under 100l. Civil bill ejectment.
  73. Defence and appeal in civil bill.
  74. Service of summons in ejectment for overholding.
  75. Security from overholding tenant in ejectment.
  76. Action for double rent for overholding.
  77. Meane profits may be recovered in ejectment to the day of trial.

*Ejectment for deserted Tenements.*

78. Civil bill ejectment for deserted tenements.
79. Certificate of desertion.
80. Civil bill ejectment against parties signing acknowledgment on execution of habere.
81. Cottier tenancies under this act.
82. When cottier tenancy determined by landlord compensation to be made for crop.
83. Cottier tenements to be repaired by landlord.
84. Summary recovery of possession of tenements for waste.
85. Summary recovery of possession for non-payment of rent.
86. Summary recovery of possession of tenements overholden.
87. Service of the summons.
88. Stay of execution of warrant on undertaking to give possession in fourteen days.
89. Irregularity in the proceeding not to make a party a trespasser.

*General Provisions.*

90. Costs may be awarded against one defendant in ejectment in civil bill court.
91. Taxation of costs in civil bill ejectment.
92. Sheriff to execute civil bill decree in ejectment.
93. Sheriff to appoint special bailiff, if required.
94. Habere and decree may be executed without disturbing possession of undertenants.
95. Removal of the writ after such partial execution.
96. Fresh execution of writ on justice's certificate.
97. Registry of decree or order for ejectment.
98. Where lands are situate in two or more counties, proceedings may be taken in either.
99. Where chairman interested, proceedings may be taken in an adjoining county.
100. No action against a justice for granting warrant.
101. Title to lands not to be drawn in question.
102. Technical errors not to defeat proceedings.
103. Schedules to be part of the act.
104. Repeal of acts and parts of acts as in Schedule (B.)
106. Commencement of act.

## LOCAL AND PERSONAL ACTS,

DECLARED PUBLIC, AND TO BE JUDICIALLY NOTICED.

23 & 24 VICTORIA.—SESSION 1860.

CAP. i.

An Act to enable the Company of Proprietors of the West Middlesex Waterworks to raise a further Sum of Money; and for other Purposes.

CAP. ii.

An Act for enabling the Blackburn Gas-light Company to raise a further Sum of Money; and for other Purposes.

CAP. iii.

An Act to repeal, alter, amend, and extend some of the Powers and Provisions of the Silverdale and Newcastle Railway Act, 1859; to authorise the stopping up, altering, and constructing of certain Roads; and for other Purposes.

CAP. iv.

An Act for supplying with Gas the Township of Droylsden, and other Places adjacent thereto, in the Parishes of Manchester and Ashton-under-Lyne, in the County of Lancaster.

CAP. v.

An Act for more effectually supplying with Gas the Borough of Leicester and the Neighbourhood thereof, in the County of Leicester.

CAP. vi.

An Act to enable the Banbridge, Lisburn, and Belfast Railway Company to make Deviations in their authorised Railways; and to enable the Ulster Railway Company to ac-

quire and hold Shares in the Undertaking of the Banbridge, Lisburn, and Belfast Railway Company; and for other Purposes.

CAP. vii.

An Act for better supplying with Water the Township of Belper, in the Parish of Duffield, in the County of Derby.

CAP. viii.

An Act for more effectually repairing the Road leading from Wern to the Lime Rocks at Bronygarth, in the County of Salop, and for making several Lines of Road connected with the same in the Counties of Salop and Denbigh.

CAP. ix.

An Act to amend the Inverness and Aberdeen Junction Railway Act, 1856; to enable the Inverness and Aberdeen Junction Railway Company to raise further Sums of Money; and for other Purposes.

CAP. x.

An Act to enable the South Devon Railway Company to improve their Plymouth and other Stations; to widen Parts of their Railway; and for other Purposes.

CAP. xi.

An Act to authorise the Construction of a Railway from the Great Western Railway at Chippenham to Calne, in Wilts.

## CAP. xii.

An Act to empower the Mayor, Aldermen, and Burgesses of the Borough of Liverpool to construct an additional Reservoir and other Works; and for other Purposes.

## CAP. xiii.

An Act for better supplying with Water the Borough and Parish of Liskeard, in the County of Cornwall; and for other Purposes.

## CAP. xiv.

An Act to enable the North London Railway Company to raise an additional Sum of Money; and for other Purposes.

## CAP. xv.

An Act for incorporating a Company for the Construction of a Railway from the Newton and Compstall Line of the Manchester, Sheffield, and Lincolnshire Railway at Marple, in the County of Chester, to New Mills and Hayfield, in the County of Derby; and for other Purposes.

## CAP. xvi.

An Act for authorising the Construction of a Railway from Stockport to Woodley, in the County of Chester; and for other Purposes.

## CAP. xvii.

An Act to enable the Brecon and Merthyr Tydvil Junction Railway Company to complete their Communication with Brecon; and for other Purposes connected with their Undertaking.

## CAP. xviii.

An Act for incorporating the Mirfield Gas-light Company, Limited, and extending their Powers; and for other Purposes.

## CAP. xix.

An Act for building a Bridge across the River Ouse, in the City of York, with Approaches thereto, and for raising, lowering, widening, altering, and improving certain Streets or Thoroughfares within the said City; and for other Purposes.

## CAP. xx.

An Act for consolidating and amending the Acts relating to the Liskeard and Caradon Railway Company; for authorising the Alteration of Portions of their existing Railway, and the Construction of new Works; and for other Purposes.

## CAP. xxi.

An Act to repeal the Act for amending and improving the Road from Glossop to Marple Bridge, in the County of Derby, and the several Branches of Roads leading to and from the same, and to make other Provisions in lieu thereof.

## CAP. xxii.

An Act for enabling the Mayor, Aldermen, and Burgesses of the Borough of Leicester to provide an additional Cemetery, with Approaches thereto, and to effect certain Arrangements with the Visitors of the Leicestershire and Rutland Lunatic Asylum; for amending the Acts relating to the Cemetery, Sewerage, and Waterworks in the said Borough; and for other Purposes.

## CAP. xxiii.

An Act for more effectually repairing the Road from Chesterfield, in the County of Derby, to Worksop, in the County of Nottingham.

## CAP. xxiv.

An Act to enable the Bagenalstown and Wexford Railway Company to make Railways to Rnniscorthy, and to a certain Limestone Quarry at Ballyellin, and an Approach Road or Roads to their Station at Wexford; and to enable the Great Southern and Western Railway Company to sub-

scribe further Sums towards the Undertaking of the Company; and to enable the Company, and the Grand Jury of the County of Wexford, and the Trustees of Wexford Free Bridge to make Arrangements in reference to the said Road or Roads; and for other Purposes.

## CAP. xxv.

An Act to enable the Shrewsbury and Welchpool Railway Company to complete and maintain Deviations in the Line and Levels of their Railway, and to complete and maintain the same across certain Roads on a Level, and to raise a further Sum of Money; and for other Purposes.

## CAP. xxvi.

An Act to continue and amend an Act for erecting a Bridge over the River Dee, at the Craiglug, in the Parish of Old Machar, in the County of Aberdeen, and of Nigg, in the County of Kincardine, and for making a Road from Cairn-robin, by the said Bridge, toward the City of Aberdeen.

## CAP. xxvii.

An Act for granting further Powers to the Croydon Commercial Gas and Coke Company.

## CAP. xxviii.

An Act for draining and improving Grunty Fen, in the Isle of Ely, in the County of Cambridge, and for maintaining the public Roads therein.

## CAP. xxix.

An Act for more effectually carrying out the Clearing House System in Ireland, and for facilitating legal Proceedings in relation thereto.

## CAP. xxx.

An Act for the better Supply of Spalding with Water.

## CAP. xxxi.

An Act for the Regulation of the Municipal Corporation of the Borough of Hedon, in the East Riding of the County of York, and for the Improvement of the Borough; and for other Purposes.

## CAP. xxxii.

An Act for the further Continuance of the Lower King's Ferry Roads Turnpike Trust; and for other Purposes.

## CAP. xxxiii.

An Act to authorise the Commissioners of the Glasgow Corporation Waterworks to raise a further Sum of Money.

## CAP. xxxiv.

An Act for authorising the Corporation of Norwich to enlarge the existing Cattle Market and other Markets in Norwich, and to establish and regulate Markets and Fairs, and make new Streets in Norwich; and for other Purposes.

## CAP. xxxv.

An Act for making a Railway from the Cannock Mineral Railway into Cannock Chase, in the County of Stafford.

## CAP. xxxvi.

An Act for changing the Name of "The Ambergate, Nottingham, and Boston and Eastern Junction Railway and Canal Company" to the Name "The Nottingham and Grantham Railway and Canal Company," and for reducing and regulating their Capital and borrowing Powers; and for other Purposes.

## CAP. xxxvii.

An Act to enable the Edinburgh Railway Station Access Company to raise additional Capital.

## CAP. xxxviii.

An Act to incorporate the Brompton and Gillingham Consumers Waterworks Company, Limited; to enable them to better supply Brompton, Gillingham, Chatham, and Rochester with Water; and for other Purposes.

CAP. xxxix.

An Act for granting further Powers to the Commercial Dock Company.

CAP. xi.

An Act for making a Railway from Stranorlar, in the County of Donegal, to the Londonderry and Enniskillen Railway, near Strabane, in the County of Tyrone; and for other Purposes.

CAP. xli.

An Act to provide for the Management, Maintenance, and Repair of the Turnpike Road from Lincoln Heath to Market Deeping, and other Roads in connexion therewith; and for other Purposes.

CAP. xlii.

An Act for relinquishing certain Works authorised by the North Staffordshire Railway Branches Act, 1854, and for authorising Agreements with respect to the Silverdale and Newcastle Railway; and for other Purposes.

CAP. xliii.

An Act for amending the Acts passed with respect to the Master, Wardens, Searchers, Assistants, and Commonalty of the Company of Cutlers in Hallamshire, in the County of York.

CAP. xlv.

An Act for authorising the Stockton and Darlington Railway Company to raise additional Capital; and for other Purposes.

CAP. xlv.

An Act to enable the Great Northern and Western (of Ireland) Railway Company to make a Deviation in their authorised Railway between Roscommon and Castlereagh; and for other Purposes.

CAP. xlv.

An Act for altering the Name of "The Belfast and Ballymena Railway Company" to the Name of "The Belfast and Northern Counties Railway Company;" for increasing their Capital; and for other Purposes.

CAP. xlvii.

An Act to enable the Dublin and Wicklow Railway Company to extend their Railway to Enniscorthy, in the County of Wexford; to change the Name of the Company; and for other Purposes.

CAP. xlviii.

An Act for enabling the Mayor, Aldermen, and Citizens of the City of Manchester to effect further Improvements in the said City; and for other Purposes.

CAP. xlix.

An Act to amend the Great Southern of India Railway Act, 1858; and for other Purposes.

CAP. i.

An Act to authorise certain Deviations in the Andover and Redbridge Railway; and for other Purposes.

CAP. ii.

An Act for granting further Powers to the West Somerset Railway Company.

CAP. iii.

An Act to enable the Midland Railway Company to contract for the Use of the Undertakings of other Companies in and near London.

CAP. iiii.

An Act for regulating the East India Coal Company, Limited, and for making Provisions with regard to the Capital and Shares of the Company; and for other Purposes.

CAP. liv.

An Act for making a Railway from Carrickfergus to Larne; and for other Purposes.

*Supplement.*

CAP. lv.

An Act for better supplying with Water the Parish of Matlock, in the County of Derby.

CAP. lvi.

An Act to enable the Limerick and Ennis Railway Company to maintain their Railway across certain Roads on a Level; and to enable the Company to purchase certain Lands for the Purposes of their Undertaking; and to amend the Provisions of the Acts relating to the said Company with respect to General Meetings; and for other Purposes.

CAP. lvii.

An Act to repeal the Act 10 Geo. 4, c. cxiv, relating to the Turnpike Roads from Hurdlow House, in the County of Derby, to Manchester, in the County Palatine of Lancaster, and to confer other Powers in lieu thereof.

CAP. lviii.

An Act for enabling the Metropolitan Railway Company to acquire additional Lands for the Construction of the Railway and for Station Accommodation; for amending the Acts relating to the Railway; and for other Purposes.

CAP. lix.

An Act to authorise the Lease of the Banbridge Junction Railway to the Dublin and Belfast Junction Railway Company; and for other Purposes.

CAP. lx.

An Act to enable the Belfast and County Down Railway Company to abandon Part of the Bangor Branch; to extend the Time for the Completion of the Remainder of such Branch, and of the Donaghadee Branch; and for other Purposes.

CAP. lxi.

An Act for making a Railway from the Belfast and County Down Railway, at Holywood, to Bangor, in the County of Down, in Ireland.

CAP. lxii.

An Act for a Modification of the Lease of the Dublin and Kingstown Railway to the Dublin and Wicklow Railway Company; and for regulating the Capital of the Dublin and Kingstown Railway Company; and for other Purposes.

CAP. lxiii.

An Act to enable the Keith and Duftown Railway Company to abandon their authorised Line of Railway, and to make a new Line of Railway instead thereof.

CAP. lxiv.

An Act to authorise the Construction of a Railway from the authorised Line of the London and South-western Exeter Extension Railway to Chard, in the County of Somerset.

CAP. lxv.

An Act to confer further Powers with respect to the Construction of Railways at or near Burton-upon-Trent; and for other Purposes.

CAP. lxvi.

An Act to enable the Midland Railway Company to make Railways between Rowsley and Buxton; to execute other Works; and for other Purposes.

CAP. lxvii.

An Act to authorise the Midland Railway Company to construct a Station in the Parish of St. Pancras, London, and to effect Arrangements with the Great Northern and North London Railway Companies and with the Regent's Canal Company; and for other Purposes.

CAP. lxviii.

An Act for better supplying with Gas and with Water the Township of Widnes, in the Parish of Prescott, in the County Palatine of Lancaster.

## CAP. lxi.

An Act for enabling the Great Western Railway Company to construct a Railway in the Parishes of Clifton Maybank and Bradford Abbas, in the County of Dorset, in connexion with the Wilts, Somerset, and Weymouth Railway; to acquire additional Lands at Yeovil; and for other Purposes.

## CAP. lxx.

An Act for increasing the Capital of the Company of Proprietors of the Sheffield Waterworks; for extending the Limits of the Sheffield Waterworks Act, 1853, so as to comprise the Parish of Ecclesfield; for making further Provisions with respect to the said Company; and for other Purposes.

## CAP. lxxi.

An Act for changing the Name of "The Sirhowy Tramroad Company" to the Name "The Sirhowy Railway Company;" and for authorising the Company to make new Works, and to maintain and work the Sirhowy Line as a Railway, and to raise further Funds; and for regulating their Capital and borrowing Powers; and for other Purposes.

## CAP. lxxii.

An Act for making a Railway from the Ashchurch and Tewkesbury Branch of the Midland Railway at Ashchurch, in the County of Gloucester, to Great Malvern, in the County of Worcester; and for other Purposes.

## CAP. lxxiii.

An Act for authorising the East Somerset Railway Company to abandon the making of their authorised Railway from Shepton Mallett to Wells, and to make instead thereof another Railway from Shepton Mallett to Wells; and for other Purposes.

## CAP. lxxiv.

An Act for authorising the Grand Surrey Docks and Canal Company to make additional Docks and other Works, and to raise further Monies; and for other Purposes.

## CAP. lxxv.

An Act to incorporate a Company for manufacturing and supplying Gas within the Parishes of Tormoham, (including the Town of Torquay), St. Mary Church, and Cockington, in the County of Devon; and for other Purposes.

## CAP. lxxvi.

An Act to enable the Oxford, Worcester, and Wolverhampton Railway Company to take on Lease the Undertaking of the Severn Valley Railway Company.

## CAP. lxxvii.

An Act to authorise Arrangements with reference to the Use by the London and North-western Railway Company of the Station at Normanton, and the Railway between the same and Goose Hill; and for other Purposes.

## CAP. lxxviii.

An Act for supplying Dartford, Crayford, Eltham, and other Places in Kent with Water.

## CAP. lxxix.

An Act to authorise the Transfer to the London and North-western Railway Company of Part of the Undertaking of the St. Helen's Canal and Railway Company, and for the Increase of the Capital of the St. Helen's Company.

## CAP. lxxx.

An Act for repairing the Roads from Horsham to Steyning, and from thence to the Top of Steyning Hill, in the County of Sussex, and from the Bottom of Steyning Hill to Slaughter's Corner, in the Parish of Beeding, and from thence to Shoreham Bridge, in the Parish of Old Shoreham, in the said County.

## CAP. lxxxii.

An Act for the Amalgamation of the Newport, Abergavenny, and Hereford, and the Worcester and Hereford Railway Companies, with the Oxford, Worcester, and Wolverhampton Railway Company, under the Name of "The West Midland Railway Company."

## CAP. lxxxiii.

An Act for making a Railway from the Oxford, Worcester, and Wolverhampton Railway to Bourton-on-the-Water, in the County of Gloucester; and for other Purposes.

## CAP. lxxxviii.

An Act for making a Railway, commencing by a Junction with the Glasgow and South-western Railway at or near the North or North-east End of the Passenger Station of that Railway at the Town of Dumfries, and terminating by a Junction with the Caledonian Railway at or near the North End of the Lockerby Station on that Line; and for other Purposes.

## CAP. lxxxiv.

An Act to increase the Capital and amend the Powers of the Dover Gas-light Company.

## CAP. lxxxv.

An Act for authorising the London Hydraulic Power Company, Limited, to acquire Powers under the Waterworks Clauses Acts, 1847; and for other Purposes.

## CAP. lxxxvi.

An Act to amend the Local Act, 54 Geo. 3, c. ciii, for making a fair and equal County Rate for the County of Buckingham.

## CAP. lxxxvii.

An Act to grant additional Powers to the Newry, Warrenpoint, and Rostrevor Railway Company.

## CAP. lxxxviii.

An Act for better defining the Powers and Liabilities of the Eau Brink Drainage Commissioners; for making Provision for the Repair and Maintenance of the Eau Brink Bridge; for simplifying the Mode of levying and collecting Drainage Taxes; for constituting from the Body of Commissioners a new Board, to be called "Conservators of the Ouse Outfall;" and for other Purposes.

## CAP. lxxxix.

An Act for making a Railway from Buckley to Connah's Quay, in the County of Flint; and for other Purposes.

## CAP. xc.

An Act for making a Railway from Altrincham through Knutsford to Northwich, in the County of Chester; and for other Purposes.

## CAP. xci.

An Act to change the Name of the Nuneaton and Hinckley Railway Company, and to enable that Company to extend their Railway from Hinckley, in the County of Leicester, to the Midland Railway, at Wigston Magna, near Leicester, in the same County; and for other Purposes.

## CAP. xcii.

An Act for the Alteration at Yeovil of the Salisbury and Yeovil Railway, leased to the London and South-western Railway Company, and of the Yeovil and Durston Branch of the Bristol and Exeter Railway; and for the making at Yeovil of a Joint Station for the London and South-western and the Bristol and Exeter Railway Companies; and for other Purposes.

## CAP. xciii.

An Act to alter and amend the several Acts relating to the Manchester Corporation Waterworks; and for other Purposes.



CAP. xciv.

An Act for making a Railway from Stourbridge, in the County of Worcester, to Old Hill, with Branches to Cradley Park and Congreaves Ironworks; and for other Purposes.

CAP. xcv.

An Act for incorporating the Wellington Waterworks Company, and granting Powers to them for better supplying with Water the Town of Wellington and Places adjacent thereto, in the County of Salop; and for other Purposes.

CAP. xcvi.

An Act for better supplying with Water the Town and Parish of Maidstone, in the County of Kent; and for other Purposes.

CAP. xcvii.

An Act for more completely merging in the Undertaking of the Caledonian Railway Company certain Railways, known as the Lesmahagow Branches; for incorporating the Holders of the Lesmahagow Branches Stock, and securing to them a fixed Annuity; and for other Purposes.

CAP. xcviil.

An Act for incorporating the City of Dublin Steam-packet Company, and for authorising them to raise additional Capital; and for other Purposes.

CAP. xcix.

An Act for making a Railway from Letterkenny to the Londonderry and Enniskillen Railway, in the County of Donegal; and for other Purposes.

CAP. c.

An Act for making a Railway from the Great Southern and Western Railway, near Charleville, to the Limerick and Foynes Railway, near Patrick's Well; and also a short Line of Railway at Limerick, to be called "The Cork and Limerick Direct Railway;" and for other Purposes.

CAP. ci.

An Act for enabling the Oswestry and Newtown Railway Company to raise additional Capital; to lease their Undertaking; and for other Purposes.

CAP. cii.

An Act for better supplying with Water the Towns of Staines, Hounslow, Basing, Acton, and Hanwell, and the several Parishes and Places adjacent thereto, in the County of Middlesex; and for other Purposes.

CAP. ciii.

An Act for authorising the London and South-western Railway Company to make and maintain a Railway in extension of their Exeter Extension Railway, and to connect that Railway with the Bristol and Exeter Railway; and for authorising Alterations of the Saint David's Station on the Bristol and Exeter Railway, and the laying down of Rails on the Narrow Gauge on divers Railways, and the working by the London and South-western Railway Company, over those Narrow Gauge Lines of Railway, from their Exeter Extension Railway to Bideford; and for other Purposes.

CAP. civ.

An Act to carry into effect an Arrangement between the Corporation of the Royal Naval School and Her Majesty's Commissioners of the Patriotic Fund, for the Admission of Pupils into the said School.

CAP. cv.

An Act for enabling the Cardiff Waterworks Company to construct additional Works, and obtain a further Supply of Water for the Town of Cardiff and the surrounding Districts, in the County of Glamorgan; and for other Purposes.

CAP. cvi.

An Act to amend the Blyth Harbour and Dock Act, 1856; to extend the Time for Completion of Works, and to levy additional Tolls and Rates; and for other Purposes.

CAP. cvii.

An Act for continuing the Powers of the Trustees of the Wexford Free Bridge; for enabling them to complete that Bridge, and to construct and improve Approaches thereto; for authorising the Grand Jury of the County of Wexford to present additional Sums of Money; and for other Purposes.

CAP. cviii.

An Act for making a Turnpike Road from the Oswestry and Newtown Railway near Cilgwrigan, in the County of Montgomery, over the River Severn, to Tregynon, in the same County.

CAP. cix.

An Act to authorise the London, Brighton, and South-coast Railway Company to make a Railway from the London, Brighton, and South-coast Railway, in the Parish of Croydon, to the West-end of London and Crystal Palace Railway, near Balham-hill, all in the County of Surrey, with a Branch Railway connected therewith; and for other Purposes.

CAP. cx.

An Act for better supplying with Water the Inhabitants of Consett and other Districts, in the County of Durham.

CAP. cxl.

An Act for making a Railway from the London and North-western Railway at Watford to Rickmansworth; and for other Purposes.

CAP. cxli.

An Act to create a further Term in the Egleston Roads; to add other Roads to the Trust; to repeal, amend, and extend the Act relating to the said Roads; and for other Purposes.

CAP. cxlii.

An Act for the Bolton and St. Helen's Road, in the County Palatine of Lancaster.

CAP. cxiv.

An Act to enable the Dublin and Drogheda Railway Company to extend their Railway from Kells to Oldcastle; and for other Purposes.

CAP. cxv.

An Act to amend and extend the Powers of Management of the Corporation of the North British Insurance Company.

CAP. cxvi.

An Act to enable the Morayshire Railway Company to construct a Railway from Elgin to Rothes; and for other Purposes.

CAP. cxvii.

An Act to enable the Sovereign Life Assurance Company to sue and be sued; to alter and amend some of the Provisions of their Deed of Settlement; and to confer further Powers on the Company.

CAP. cxviii.

An Act for the Doncaster and Tadcaster Road, in the West Riding of the County of York.

CAP. cxix.

An Act to authorise the Improvement of the Common Muir of Auchterarder, in the County of Perth, and to regulate the Management thereof, and the Application of the Revenues arising therefrom for the Benefit of that Burgh or Town.

CAP. cxx.

An Act to enable the Symington, Biggar, and Broughton Railway Company to extend their Railway from Broughton to Peebles; and for other Purposes.

## CAP. cxxi.

An Act for enabling the Portadown, Dungannon, and Omagh Junction Railway Company to alter the Line of their Extension Railway, and to make a Branch Railway at Omagh; for authorising certain Arrangements with the Ulster Railway Company and the Londonderry and Enniskillen Railway Company; and for other Purposes.

## CAP. cxxii.

An Act for making a Railway from the Southport, Disley, and Whaley Bridge Railway, in the Parish of Stockport and County of Chester, to Hayfield, in the County of Derby; and for other Purposes.

## CAP. cxxiii.

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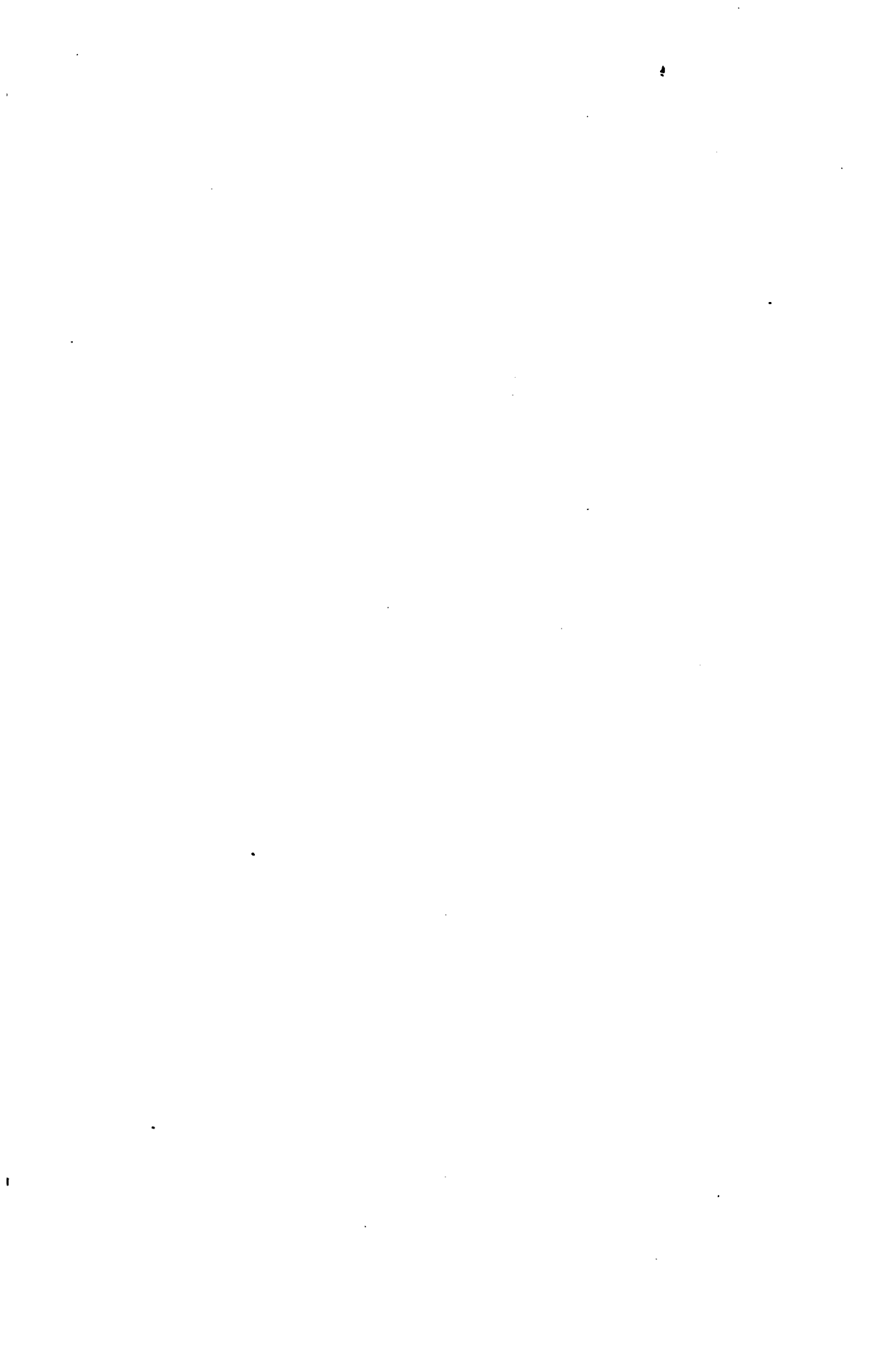
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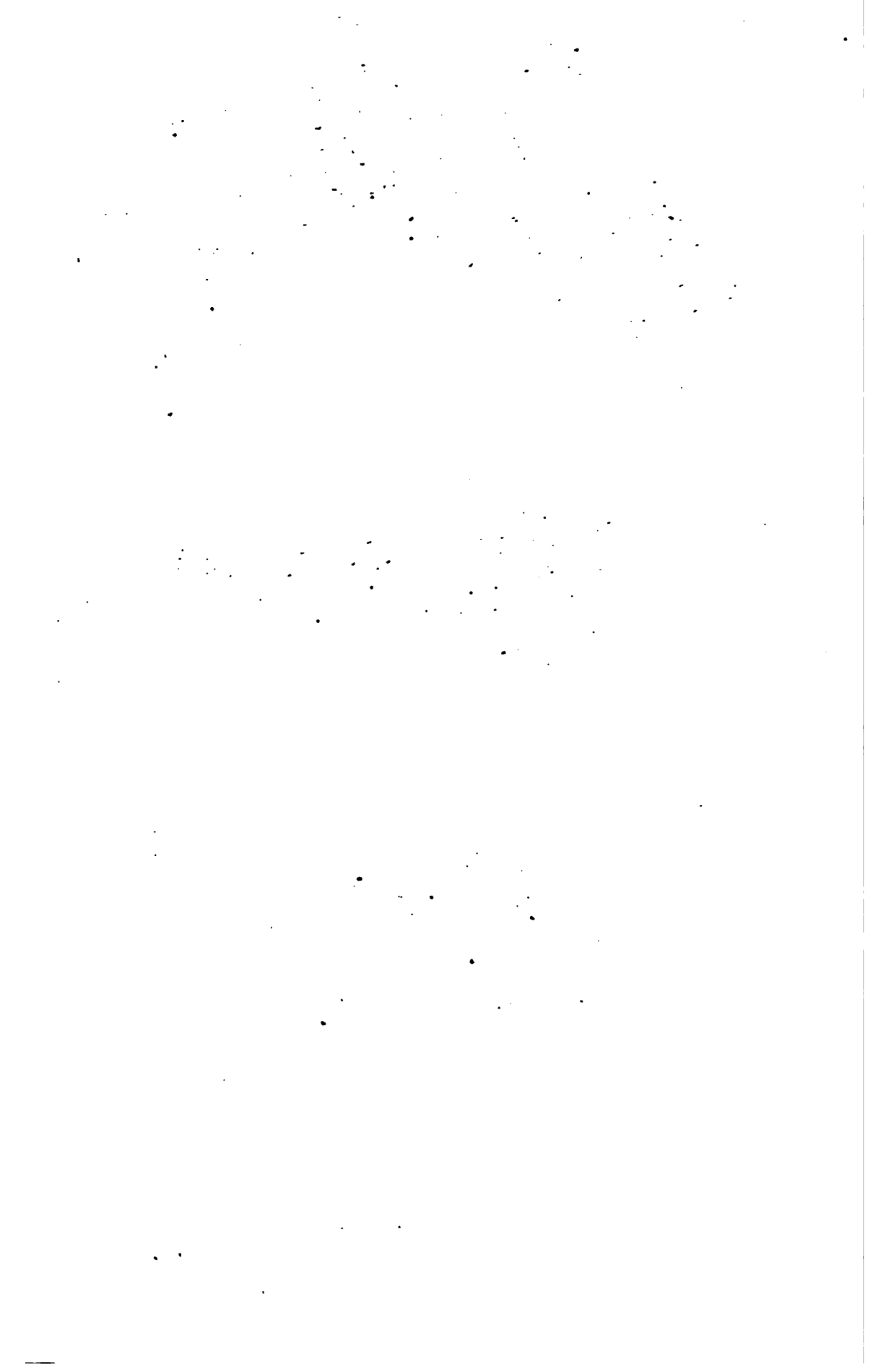
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